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MONTANA SCHOOL FINANCE: A QUESTION OF EQUITY

A Report to the 48th Legislature

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Joint Subcommittee on Education

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November 1982

ACKNOWLEDGMENT

The Joint Subcommittee on Education would like to thank several organizations and individuals for the special assistance offered the Subcommittee and its research staff during the study process. Appreciation is extended to: the Education Commission of the States, especially John Augenblick, the director of the Commission's Education Finance Center; the National Conference of State Legislatures, especially Sandy Yoviene, Director of Education Programs; Mary Frase Williams, education finance consultant to NCSL; and Ed Argenbright, Superintendent of Public Instruction, and the staff of the Office of Public Instruction.

Special recognition is given to Stephen R. Colberg, statistician for the Office of Public Instruction, who contributed valuable data and explanations on school funding in Montana.

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CONCLUSIONS AND RECOMMENDATIONS

The Joint Subcommittee on Education recommends that the 48th Legislature:

(1) improve equalization of the nonvoted portion of school district general fund budgets by enacting LC 29, a bill to eliminate the permissive amount and permissive levy allowed school districts and to increase the basic county equalization levies in support of the foundation programs of the elementary and high school districts;

(2) promote more equitable financing of the voted area of school district general fund budgets by enacting LC 69, a bill to create a guaranteed tax base program;

(3) continue to support adequate foundation program schedule increases because the foundation program is the cornerstone of school funding in Montana and its funding must address the pressures of inflation on school district general fund budgets;

(4) acknowledge the need to find a method of equalizing the county levies in support of school district employees' retirement and other benefits; the Subcommittee explored this problem but chose not to recommend a specific solution in deference to the priority placed on the other recommendations.

HOUSE JOINT RESOLUTION NO. 34

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE FINANCING OF PUBLIC EDUCATION IN MONTANA; AND REQUIRING A REPORT OF THE FINDINGS OF THE STUDY TO THE LEGISLATURE.

WHEREAS, the State of Montana has an obligation to provide adequate educational opportunities for its citizens; and

WHEREAS, financing of public education is presently based on a complicated foundation program designed to provide an equitable and equalized financing structure for public education; and

WHEREAS, legal action is being considered to address and resolve the question of whether or not the school foundation program as currently funded properly meets the mandate for the funding of public education as stipulated in Article X, sections 1 and 3 of the Montana Constitution; and

WHEREAS, financing of public education is becoming more and more dependent on property taxation and voter approved mill levies because of the deficiency in the foundation program; and

WHEREAS, property taxpayers and voters in local communities are becoming increasingly reluctant to accept the burden of additional taxation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the revenue oversight committee be assigned to determine whether or not the school foundation program as currently structured and funded properly meets the mandate for the funding of public education as stipulated in Article X, sections 1 and 3 of the Montana Constitution. The study shall include consideration of ways in which the increasing pressure on local voted levies can be relieved.

(2) That the study include a consideration of the relationship between the basic educational program established in the standards for accreditation and the foundation program amount.

(3) That the committee submit to the 48th Legislature a report of its findings, together with recommendations for legislation, if any, necessary to implement such findings.

Approved April 27, 1981.

INTRODUCTION TO THE ISSUES RAISED IN HJR 34 OF THE 1981 LEGISLATIVE SESSION

House Joint Resolution 34 required the Joint Subcommittee on Education to focus on three major concerns:

1. Whether the present school finance program meets the mandate for funding public education as stipulated in Article X, Section 1 of the 1972 Montana Constitution (see Appendix A);

2. How to relieve the increasing burden of financing a large portion of school general fund budgets through local voted mill levies;

3. Whether the foundation program schedule amounts guaranteed districts are adequate to fund the basic educational program as established by the standards for school accreditation.

The impetus for HJR 34 was the threat of citizen-initiated legal action to compel the state to revise the methods of funding school district general fund budgets. Those urging the suit contended that the present system is not designed to help school districts meet the constitutional guarantee of "equal educational opportunity" for all students. In addition, a number of members of the 47th Legislature had been introduced to the premise that the foundation program was not sufficiently funding the costs of meeting the standards of accreditation imposed by the Board of Education.

The content of HJR 34 implied that serious concerns were emerging over the constitutionality of the Montana school finance system and the state's role in providing funding of that system. Ten years have passed since specific educational goals and duties were endorsed by inclusion in the 1972 Montana Constitution. Ten years have passed since the last interim study of the financing structure of public school education in our state. Throughout the last ten years, the issue of equitable financing of public schools has prompted court cases, forced taxation reform, and focused attention on the quality of education in nearly every state in the union. It was almost inevitable that Montana would have to address this widely established concern for taxpayer equity and equal educational opportunity for students.

States that have attempted to realize the highly regarded goals of equitable financing of schools and equality of educational opportunity for students have stumbled against some major obstacles: the retention of local control; the definition of the "basic education" that is to be guaranteed; and the availability of an equitable, broad-based taxation structure for revenue. The Joint Subcommittee on Education faced those same obstacles and made the final recommendations with those problems in mind.

SUMMARY OF TESTIMONY AND FINDINGS

During the first few meetings of the Subcommittee on Education, the issues set forth in HJR 34 were refined to the following major questions. Testimony and findings pertinent to the questions are included.

Are there reasons why the Montana school finance system might be vulnerable to legal action based on constitutional mandates?

The Subcommittee learned from several sources that the state might indeed be vulnerable to a suit based on the constitutionality of the present system of financing public education in Montana. The phrases in Article X, Section 1 of the 1972 Montana Constitution that might invite scrutiny include:

-- "Equality of educational opportunity is guaranteed to each person of the state."

-- "The legislature shall provide a basic system of free quality public elementary and secondary schools."

-- "It (the legislature) shall fund and distribute in an equitable manner the state's share of the cost of the basic...school system."

Dr. Milton Negus, former Superintendent of Schools from Bozeman, alleged that discrepancies exist between constitutional intent and current school funding practices. He maintained that the funding system discouraged "equality of educational opportunity" because: funding for most school purposes is a function of local property wealth and the variations in such tax wealth result in variations in dollar support per student; the state has delegated some of its financial obligation to local voters who can either reject or approve levies; and, finally, taxpayers in property-poor districts pay higher tax rates than those in property-wealthy districts for comparable school systems.

John Augenblick, Director of the Education Finance Center of the Education Commission of the States, stressed to the Subcommittee that most school finance reform and court challenges to reform were centered around wealth disparities among districts and constitutional guarantees similar to Montana's. He indicated that Montana's constitutional language regarding education is some of the clearest and strongest in the nation.

The National Conference of State Legislatures funded a forum for the Subcommittee, featuring several legislators and a staff person from three states that have been faced with court-mandated school finance reform in the past few years.

The main point made by the panelists was that the Montana legislature should attempt to solve any identifiable equity questions before court action occurs. The speakers stressed that the courts have often dictated their own specific reform measures or goals that are binding on the state legislatures. In Washington state, the court required the legislature to define "basic education" and to link funding to that definition. The New Jersey Supreme Court closed the schools for three weeks until the legislature devised a finance reform plan.

The issues of taxpayer equity and student equity and their relationship to constitutional guarantees emerged as the primary focus of the Subcommittee's study and led to the remaining questions.

Is the current school funding system equalized enough to promote both "equality of educational opportunity" for Montana students and taxpayer equity?

The Foundation Program, initiated in 1949, was designed to:

-- provide state-funding support for school general fund budgets in order to relieve pressure on local property taxation;

-- provide equal educational opportunity for students, as indicated by equal funding per child according to size of school;

-- apportion the fiscal burden of basic education costs fairly among the state's taxpayers.

During the past 30 years, the Foundation Program has been examined and altered in attempts to improve upon the original equalization goals and to meet the needs of changing conditions. Through the years, the legislatures have granted percentage increases in the statutory foundation program schedules to keep pace with inflation and expanding educational programs.

The schedules guarantee the level of foundation program and permissive area funding for each size of school (based on the average number belonging or ANB count).* The schedules cover the "equalized" portion of school general fund budgets.** Each district, through locally approved levies, can choose to fund a general fund budget that goes beyond the foundation/permissive area. The "voted levy" area of general fund budgets is, of course, not equalized among the districts.

The unequalized voted levy area has increased steadily over the years for most districts. By the 1981 school year, voted levies funded nearly 1/3 (31.3%) of the total general fund budgets of Montana schools. The percentage of voted general fund support dropped to 29.4% in 1982, but this amount still suggests that foundation/permissive funding has not kept pace with locally determined and mandated costs of educational programs.***

The Subcommittee learned from a report to the Superintendent of Public Instruction by George R. Bandy that there are various factors working against equalization of school funding:

-- The basic county equalization levies (now fixed at 25 mills for elementary and 15 mills for high schools) have provided a decreasing portion of revenue for the general fund budgets. In 1950, the county levies were 42.4% of the total funding; by 1980, they had fallen to 22.6%. Taxable valuations of Montana property have not been increasing at as high a rate as inflation and school general fund budgets.

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* Average Number Belonging, ANB, is the measure of school enrollment that is used for school finance purposes.

** Both are termed the maximum-general-fund-budget-without-a-vote.

*** For a discussion of the "disequalizing" effects of the permissive area, see page 9.

**** The general fund budgets of schools cover only the maintenance and operation costs and do not include such areas as teacher retirement and benefits, transportation, and building programs.

-- The foundation program amount has declined as a percent of the total general fund budget amount - from 81.2% in 1950 to 57.6% in 1980.

-- Voted levies were 7.5% of total general fund budgets in 1950 and grew to 31.2% in 1981.

-- The permissive levy area of general fund budgets is not a completely equalized area because some wealthy districts can raise this discretionary, nonvoted amount with less than the 9 mills (elementary) or 6 mills (high school) allowed.*

-- Dollar support per child, even among districts of similar size, varies widely.

-- High and low support per child can be related to the property wealth of the district.

When the data supporting the conclusions of the Bandy report were updated for the 1982 school year, the Subcommittee learned the following:

-- Most districts depend on voted levies to generate revenue for general fund budget needs beyond foundation and permissive program support. Relatively few districts are able or willing to limit their budgets to the foundation and permissive levels of support. Fifty percent of the elementary students (by average number belonging count) attend schools in districts where the voted levy area is 46% above the foundation/permissive level of support. Fifty percent of the high school ANB count attend schools in districts where the voted levy area is at least 50% above the foundation/permissive level of support (see Appendix B and pages 4 and 5 of Appendix C).

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* The permissive area is 20% of the maximum-general-fund-budget-without-a-vote or schedule amount. If the allowable millage does not generate enough local tax revenue to fund this guaranteed area, state permissive payments make up the deficiency. For further discussion of this problem area, see page 12.

-- There is wide disparity in the property wealth available to districts for both permissive and voted area support. Taxable valuation per ANB ranges from under $1,000 per ANB to over $1 million per ANB for some elementary districts in resource wealthy areas (see Appendix B).

-- This disparity has resulted in inequities in taxpayer burdens and per student expenditures among districts. There is clear evidence that high property wealth districts have lower tax rates and higher per student expenditures while lower property wealth districts have lower per student expenditures and higher tax rates (see pages 7 and 8 of Appendix C).

The Subcommittee learned that the design of the permissive area results in disequalization among school districts, as indicated by the following:

-- The permissive amount has become a mandatory, rather than a discretionary, part of the funding for district general fund budgets. Only a handful of districts use less than the full permissive amount allowed; in fact, for 1981-82, over 99.9% of the total permissive was budgeted and statewide less than $49,000 was unused. Most districts find it necessary to use the full permissive and seek further funding through the voted levy.

-- School districts of high taxable wealth can attain their permissive funding with less than the 9 mills or 6 mills allowed. In 1981-82, 121 of 394 elementary districts did not need to levy the full millage. These districts represent 6½% of the total elementary ANB count and have 38% of the state taxable wealth. Their average taxable valuation per ANB was $110,000, an amount five times the state average elementary taxable valuation per ANB of $19,193. Of the 162 high school districts, 27 did not require all 6 mills allowed for the permissive amount. These districts represent 9% of the total high school ANB count and have 37% of the state taxable wealth; their average wealth is four times the state average high school taxable wealth per ANB of $39,822.

What changes can be made in the school funding structure that will reduce taxpayer inequities and promote equality of educational opportunities for Montana students?

The Subcommittee established that improvements in the level of equalization of the existing school general fund financing system was preferable to a major overhaul of that system.

The Subcommittee also acknowledged that Article X, Section 8, of the Montana Constitution reflects a desire for local control of elementary and secondary schools and this desire extends to approval of locally determined general fund budget needs (see Appendix A). To balance the value placed on local control of schools with the constitutional mandate for "equality of educational opportunity" for students, the Subcommittee selected the following draft legislation for improved equalization of funding for school general fund budgets.

> LC 29, an act to eliminate the permissive amount and the permissive levy allowed school districts and to increase the basic county equalization levies in support of the foundation programs of the elementary and high school districts; the basic county levy for elementary schools would increase from 25 mills to 34 mills and the basic county levy for high schools would increase from 15 mills to 21 mills, for a total of 55 mills to be levied in each Montana county.

Increasing the county equalization levies by the 9 mills and 6 mills now allowed for elementary and high school permissive levies, respectively, would increase county equalization by $7.2 million.

Since the property-wealthy counties would not need all this additional millage to fund the foundation program portion of their budgets, the excess would flow into the state equalization account. Under LC 29, all districts would contribute the same millage towards equalization of the foundation program. The permissive amount would be eliminated by increasing the foundation program guarantee from 80% to 100% of the statutory schedule amount for the various-sized districts.

> LC 69, an act to create a guaranteed tax base program to promote more equitable financing of the voted area of school general fund budgets.

There are two parameters that define the guaranteed tax base program:

-- The first is the guarantee that applies to taxable valuation per ANB (TV/ANB). LC 69 is drafted to guarantee that a district would be eligible if its TV/ANB is below the state average TV/ANB. This parameter could be set at an eligibility level of 80% of the state average TV/ANB, or any level from 70% up to or beyond the state average TV/ANB. The lower the eligibility level, the lower the program cost would be because fewer districts would qualify.

-- The second is the guarantee that applies to the budget level that the program would cover. In LC 69, the budget level is set at 50% beyond the foundation/permissive schedule amount for the size of the district. This parameter could be set as low as 35% of the general fund budget beyond the schedule guarantee; however, altering this parameter downward does not decrease program costs as much as lowering the eligibility level would, but it does significantly decrease the equalization achieved.

For an in-depth explanation and analysis of the guaranteed tax base options, please refer to the Colberg report in Appendix C.

Table I lists some cost projections for the GTB Program in concert with various schedule increases. The line entitled "Max. State GTB Cost" shows what the maximum state cost would be if every eligible district required a state share of funding for a general fund budget that was 50% beyond the schedule guarantee. It is unlikely that every eligible district would raise their general fund budget to the maximum of the guarantee in the first few years of the program. Districts would have to levy for their share of the budget level guarantee and, for many eligible districts, this share, taken to the limit, would be much more than they are currently levying.

-- The guaranteed tax base program, as set forth in LC 69, would work in the following way:

   a. a district can qualify if the district taxable valuation per ANB is below the state average taxable valuation per ANB. The average valuations per ANB in 1981-82 would have been $19,193 for elementary districts and $39,822 for high school districts;

b. the state would share with a qualifying district in funding any general fund budget amount up to 50% above the schedule amount allowed that district;

c. the formula for determining the state and district shares is calculated in the following way, using an example elementary district (see model on page 14):

(1) the district taxable valuation per ANB is divided by the state taxable valuation per ANB

$7,677 ÷ $19,193 = .40

(2) the district's schedule amount is multiplied by .50 to determine the maximum amount beyond the schedule amount that the GTB program will cover

schedule amount	$500,000
	x .50
guaranteed budget maximum	$250,000

(3) the guaranteed budget maximum is multiplied by the ratio of district TV/ANB to state TV/ANB from step (1)

$250,000
x .40
$100,000

(4) 70% of any nontax revenue ($30,000 for example district) that accrued to the district in the prior school year is added at this point

	$100,000
nontax revenue =	+ 21,000
	$121,000

this amount becomes the "district share maximum"

(5) the "district share maximum" is divided by the guaranteed budget maximum from step (2) to determine the district share percent:

$121,000 ÷ $250,000 = .48

(6) the state share percent is then .52

(7) the state share percent is applied to any locally-determined general fund budget amount beyond the schedule amount (not to exceed the guaranteed budget maximum) to determine the

guaranteed tax base aid amount. In this case, the district needed $200,000 beyond its schedule amount:

	$ 200,000
state share percent =	x .52
guaranteed tax base aid amount =	$ 104,000

The state would contribute $104,000 and the district would fund the remaining share ($96,000) using the $30,000 in nontax revenues and by a mill levy of 24.56 mills.

$66,000 ÷ ($2,686,950 x .001) = 24.56 mills

d) In accordance with 20-9-353, MCA, the trustees of this district would need to seek voter approval to spend the $50,000 and to set a mill levy to cover the district share of $24,000. The trustees may set a general fund budget that exceeds the guaranteed budget maximum for state participation but the district would be responsible for all the revenue required to go beyond that maximum.

What other school funding concerns were addressed by the Subcommittee on Education?

During the study process, the Subcommittee explored several school finance issues outside the funding of the school general fund budgets. These issues include:

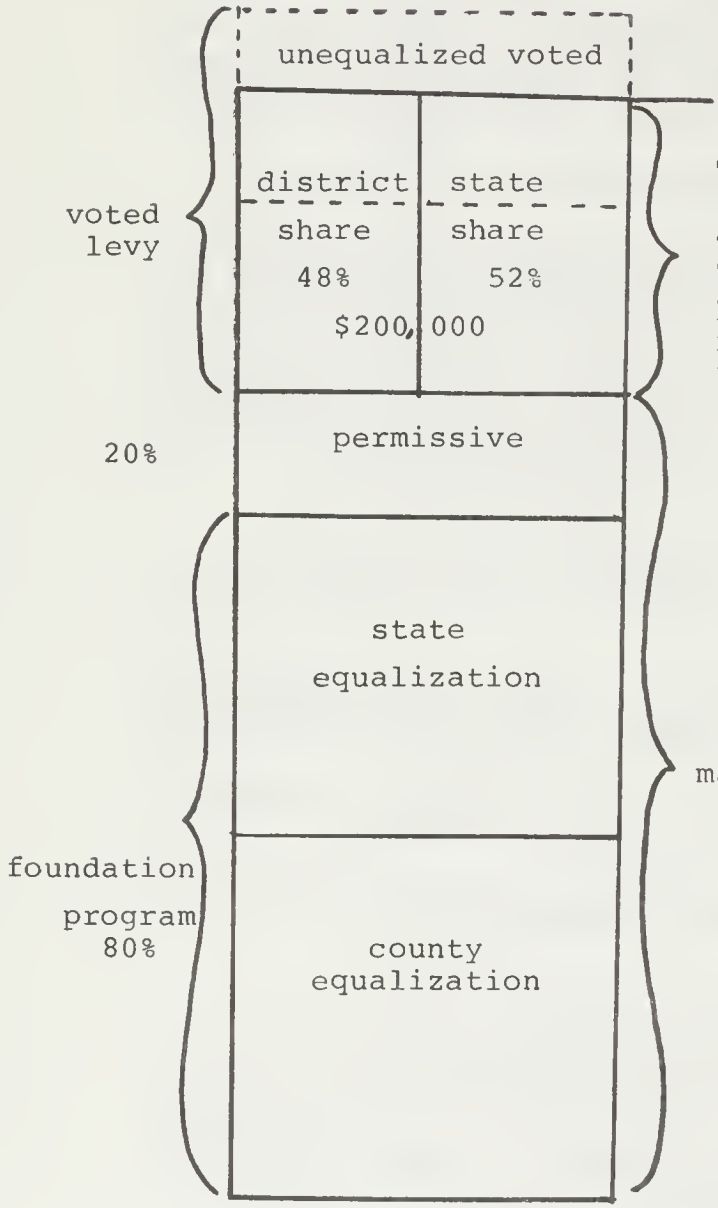
-- Further equalization of the county retirement levies. (See Appendix D for full report.)

-- Proposed changes in foundation program support for small, nonisolated high schools.

-- State aid for school capital improvements.

Please refer to the following section on Subcommittee Deliberations for a description of testimony and Subcommittee action on each of the above issues and others not listed here. Appendix E lists all reports that are not included in this final report but are on file in the Legislative Council library.

A MODEL OF THE GUARANTEED TAX BASE PROGRAM



Example:

District taxable valuation = $2,686,950

District ANB count = 350

District taxable valuation per ANB = $7,677

State average taxable valuation per ANB for elementary= $19,193

The guaranteed budget maximum for this district is $250,000, or 50% above the schedule amount. Any general fund budget up to this amount would be shared on the basis shown. The example district budgeted $200,000 in this area.

maximum-general-fund-without-a-vote

(schedule amount)

$500,000

TABLE I

COST PROJECTIONS FOR GTB PROGRAM

Assumptions:

St. Avg. TV/ANB
50% Guar. Budget Max.
OPI enrollment projections
Co. Levy = 55 mills (no permissive)
State Taxable Valuation Growth = 7%
OBPP Revenue Est. (April, 82)

Year:	(84)	(85)	(84)	(85)	(84)	(85)
Sched. increase:	0%	0%	3%	3%	9%	7%
MGFBWV (Schedules)	$248.8	$247.8	$256.2	$262.9	$271.2	$289.0
Max. State GTB Cost	+32.1	+32.2	+33.1	+34.2	+35.0	+37.6
Max. State Cost	280.9	280.0	289.3	297.1	306.2	326.6
St.-Co. Equal.	-236.5	-251.9	-236.5	-252.0	-236.5	-252.0
Approp., Balances	$ 44.4	$ 28.1	$ 52.8	$ 45.1	$ 69.7	$ 74.6

Assumptions:

80% of St. Avg. 50% Guar. Budget Max.

Max. State GTB Cost	19.9	19.8	20.5	21.0	21.7	23.1
Approp., Balances	$ 32.2	$ 15.7	$ 40.2	$ 31.9	$ 56.4	$ 60.1

For more detailed analysis and additional options, please refer to "Cost Projections for Guaranteed Tax Base Program", Stephen R. Colberg, on file in Legislative Council Library.

SUBCOMMITTEE DELIBERATIONS

The following chronology is designed to highlight the steps of the study process, acknowledge major testimony, and list the reports presented to the Subcommittee on Education.

Reports that are not included in full text in the Appendices are numbered to correspond to the list in Appendix E. All reports are on file in the Montana Legislative Council library.

1. First Meeting - August 7, 1981

   a. Presentation and approval of staff study design and work plan.(1)

   b. Dr. Milton Negus presented his views on the constitutionality of the current school finance system.(2)

   c. The Superintendent of Public Instruction, Ed Argenbright, pledged the services of his office to the study process.

   d. John Augenblick, Director of the Education Finance Center of the Education Commission of the States, gave an overview of school finance reform in other states and stressed that such reform has centered around wealth disparities among districts.(3)

2. Second Meeting - October 23, 1981

   a. Susan Shyne of the Legislative Auditor's Office reviewed a recent financial compliance audit of the Office of Public Instruction and its school funding procedures.(4) The report recommended that, to improve equalization, county sources of equalization should be remitted directly to the state to be reallocated with state equalization money.

   b. The National Conference of State Legislatures sponsored a seminar on education finance issues. The panel was composed of: Assemblyman Albert Burstein, Chairman of the Education Committee of the General Assembly of New Jersey; Sally Arellano, research analyst for the Arizona Senate Education Committee; Senator Sue Gould, Senate Educa-

tion Committee member from Washington state; and Dr. Sandra Kissick (now Sandra Yoviene), Director of Education Programs for NCSL. Dr. Kissick pledged NCSL support for further study needs.

c. Steve Colberg, statistician for the Office of Public Instruction, reviewed the contents of the Bandy report and furnished 1980-81 school data to corroborate the findings of the study.(5)

d. Staff research reports were distributed on the following topics: the legislative and financial history of the Foundation Program(6); the intent of the 1972 Constitutional Convention regarding school funding (7); and a summary of findings in response to the study questions.(8)

3. Third Meeting - January 8, 1982

a. Andrea Merrill, staff researcher, presented a summary of an appraisal of the Montana school finance structure prepared by NCSL consultant, Dr. Mary Frase Williams.(9) Dr. Williams visited Montana in December, 1981. The report suggested that: equalized funding be linked to the average expenditure per pupil in the state; property assessment practices are not conducted in a uniform manner and, therefore, the 40-mill county levy does not represent a uniform tax; and Montana is not following the national trend of reducing reliance on property taxation to fund education.

b. Subcommittee members discussed: the need to define "basic education" in statute versus allowing local districts to continue to define what is "basic" to local needs; new sources of revenue for funding, such as a sales tax or a lottery; and local control of schools in general. Members unanimously agreed that the state should, in some way, provide more equalized funding of education. (10)

c. John Campbell, business manager of Helena School District, presented a report that showed how general fund budgets have grown in

relationship to enrollment increases and declines and in relationship to inflation. (11)

4. Fourth Meeting - March 6, 1982

a. Representative Ken Nordtvedt testified on the need to equalize a portion of the county levies for teacher retirement and other benefits. He stressed that the levies are mandatory and the costs are not negotiable because payment rates are set by law.(12)

b. Allen Gunderson, chairman of the State Board of Education, spoke on the development of the state accreditation standards. He stressed that the standards are minimum requirements and are not an attempt at designing "quality" education.(13)

c. Rod Svee, Assistant Superintendent in the Office of Public Instruction, presented his personal views on the costs of meeting the accreditation standards. His study indicated that, on the average, 85% of school general fund budgets went toward teacher salaries and building maintenance and that the foundation program paid for only 67% of those basic costs. Hal Hawley, OPI Department of Basic Instruction Services, explained the computerized study that was being developed to determine the costs of meeting the standards.(14)

d. Members of the Montana Adult Education Association testified on the need to develop a better state funding mechanism for adult basic education.(15) Sen. Regan moved to request the Legislative Finance Committee to study the question further.

e. Dr. Milton Negus, representing the legislative committee of the School Administrators of Montana, suggested the following school funding options: that the foundation program pay for 90% of the general fund budget authority; that the remaining 10% be a local option levy that would be equalized by guaranteeing a minimum taxable valuation per student; that retirement levies be equalized, either by a return to the general fund or a

statewide levy; and that the permissive levy be eliminated and replaced by an increase in the basic county levy.(16)

f. Representative John Shontz, House District 53, testified that many districts in his area have as difficult a time raising voted revenue as do districts in other parts of the state. He also reminded the subcommittee that the petroleum industry already supplied a significant amount to the foundation program. He noted that after North Dakota raised oil extraction taxes in support of education, they experienced a serious shortfall in revenue from that source.(17)

g. Several school administrators spoke against any equalization of or limits on the voted levy area.(17)

5. Fifth Meeting - April 19, 1982

a. Ed Argenbright, Superintendent of Public Instruction, was requested to give his assessment of the proposed reduction in federal funding for education in Montana. He noted cuts in the school lunch program, Title I, adult basic education, vocational education, and federal impact aid (PL 874 money). He felt that, on the whole, Montana would benefit from the federal block grant proposal. (18)

b. The subcommittee discussed a staff report on study progress to date and on how a guaranteed tax base program would work.(19)

c. Steve Colberg presented information on the permissive levy area. He also offered visual representations on the disparities in spending and mill levy support among districts. (See page 2 of the Colberg report in Appendix C.)

d. The subcommittee received staff reports on: equalization of the county retirement levies (see Appendix D); other states' programs to reduce funding inequities (20); state aid for school construction costs (21); school district consolidation (22); and other states' school budget and taxation limitations.(23)

e. Representative Bengtson encouraged the subcommittee to consider state aid for school construction and explained the two bills on this issue that she sponsored in the last session.(24)

f. The subcommittee unanimously supported a motion to eliminate the permissive levy and increase the basic county levies to 55 mills.

g. The subcommittee voted 6-2 to request a draft bill on foundation program schedule changes that would act as incentives to consolidation of small high schools. The committee was divided on whether to address the issue of consolidation further.

h. The subcommittee voted to request bill drafts on various methods of equalizing the costs of teacher retirement and other benefits.

6. Sixth Meeting - July 21, 1982

a. Steve Colberg, OPI statistician, presented a detailed report on the guaranteed tax base program and how it would work to improve equalization (see Appendix C). He said that computer printouts were available on how various guaranteed tax base options would effect every district in the state.(25) Colberg also discussed an analysis of the permissive amounts used by districts in 1981-82.(26)

b. The subcommittee reviewed LC 29, the bill draft on elimination of the permissive levy area, and voted unanimously to recommend the proposal to the 48th Legislature (see Appendix F).

c. The staff researcher explained LC 41, a bill draft that would equalize a portion of the funding for county teacher retirement levies. The bill provided for an appropriation that would give a dollar amount per ANB to help reduce the levies.(27) An accompanying report showed how much levies would be reduced with an appropriation for $100, $50, or $25 per ANB. The cost of guaranteeing $100 would be around $15 million (see Appen-

dix D). Another bill draft (no LC number) was discussed that would return retirement obligations to the general fund budget. The committee agreed to reserve consideration of draft bills on retirement equalization for another meeting.

d. The staff researcher explained LC 34, a bill draft that would limit nonisolated high schools of under 100 ANB to the same schedule amount allowed for schools with 100 ANB, or $1,747 per ANB. If a high school was designated as isolated, using the isolation criteria for elementary schools in the Administrative Rules of Montana (10.13.102), it would receive the same schedule rate now awarded that size of district.(22) The bill draft would not mandate consolidation, but would reverse the trend of awarding the small high schools more money per ANB than larger schools.(28)

7. Seventh Meeting - September 10, 1982

a. The subcommittee discussed the bill draft, LC 69, creating a guaranteed tax base (GTB) program to promote more equitable financing of the voted area of school general fund budgets (see Appendix G). Members expressed concern that the program should not be a substitute for adequate schedule increases. A motion carried unanimously to continue support for adequate schedule increases because the foundation program is the cornerstone of school funding in Montana and its funding must address the pressures of inflation on school general fund budgets.

b. Steve Colberg explained an analysis of the projected costs of the GTB program. His analysis took into account a projected decline in high school enrollment and slight increase in elementary enrollment. The various GTB options were considered in concert with various schedule increases (29).

c. The subcommittee voted unanimously to recommend LC 69 to the 48th Legislature.

d. After discussion of LC 41, a bill draft to equalize a portion of the county retirement levies, the subcommittee voted to not recommend the bill. However, a subsequent motion

on the following explanation carried unanimously: that the Subcommittee report include the background material on LC 41 and an explanation that the subcommittee was reluctant to pursue this issue further because it had set a priority on recommending the equalization measures on LC 69 and LC 29; in addition, the subcommittee hoped that the next legislature would work hard at finding a solution to the equalization of retirement costs.

e. Subcommittee discussion on LC 34, an act to reduce state funding to nonisolated small high schools, led to a vote to not include the bill draft as a recommendation. Some members felt the bill would encourage more cost-efficient schools with better programs for students. Other members felt that the bill might jeopardize other recommendations because consolidation is a controversial topic and might not be under the purview of the study resolution.

APPENDIX A

ARTICLE X

EDUCATION AND PUBLIC LANDS

Section 1. Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Section 8. School district trustees. The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

GENERAL FUND BUDGET RATIOS AND TAXABLE VALUATION PER ANB*
1981-82 DISTRIBUTION BY PERCENTILES

Percentiles Weighted by ANB	TV/ANB		General Fund Ratio**	
	Elem.	High School	Elem.	High School
Maximum 100	$10,516,131	$450,262	4.10	3.18
95	45,938	120,263	1.86	2.00
90	27,053	68.919	1.69	1.77
85	19,819	45,111	1.56	1.74
80	15,830	34,087	1.55	1.61
75	14,243	32,410	1.52	1.53
70	13,683	32,147	1.48	1.52
65	13,261	31,189	1.47	1.51
60	13,187	30,664	1.47	1.51
55	13,000	30,664	1.47	1.50
Median***50	12,479	29,310	1.46	1.50
45	11,664	25,867	1.44	1.47
40	10,458	23,506	1.41	1.41
35	10,349	22,923	1.36	1.40
30	9,685	20,975	1.34	1.39
25	9,621	19,492	1.31	1.38
20	9,183	19,329	1.24	1.33
15	8,509	18,233	1.16	1.24
10	8,332	17,691	1.13	1.22
5	6,341	14,441	1.02	1.11
Minimum 0	320	8,264	0.86	0.99

*These two distributions by percentile are not meant to be compared with each other. For example, the students represented at the 95th percentile for TV/ANB may not be the same students represented at the 95th percentile for the general fund ratio; some wealthy districts do not choose to spend a high voted amount.

**This ratio compares the voted to the nonvoted portions of the total general fund budgets of Montana elementary schools and high schools. The nonvoted (foundation plus permissive) has a value of 1.0. Thus, at the median for high schools, the voted portion is half the size of (50% above) the nonvoted portion, or 1/3 of the total general fund budget. At the 95th percentile for high schools, 5% of the ANB attend schools that are supported by a voted levy that is twice that of the nonvoted amount. The 5th percentile and under represents districts (ANB) that spend at or under the nonvoted budget amount, either because they choose to or because they have low taxable valuation and cannot raise the total permissive millage allowed.

***The median means that half of the ANB count is above this mid-point and half of the count falls below it. For example, half of the elementary ANB attend schools that are supported by a taxable valuation per ANB (TV/ANB) of $12,479 or above. At the 95th percentile for high schools, 5% or less ANB attend schools with a TV/ANB of $120,263 or above.

A STUDY OF GUARANTEED TAX BASE: SUPPLEMENTAL FUNDING TO IMPROVE EQUALIZATION BETWEEN LOW-WEALTH AND HIGH-WEALTH SCHOOL DISTRICTS

Part I: Narrative

BY

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OFFICE OF PUBLIC INSTRUCTION

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Prepared for the Joint Subcommittee on Education

The opinions and conclusions expressed herein are solely those of the author, and should not be construed as representing the opinions or policy of the Office of Public Instruction.

FA20182

INTRODUCTION

Testimony presented to the Joint Subcommittee has identified two major problem areas in present funding of Montana Public Schools, namely,

1) the Retirement Fund and
2) the Voted Levy Amount of the General Fund.

This study of Guaranteed Tax Base concerns the second of these two problem areas, the Voted Levy Amount.

There are two basic avenues a state may follow to provide a more equitable school finance system. The first is equalization of fiscal outcomes among school districts within the state. Such an approach to equalization should not allow any student (or taxpayer) to obtain a more expensive public education (a lower tax burden) than is available to others in the state.[1] It is accomplished by adopting a foundation program tied to student needs and funded by uniform tax levies with very strict limitations on budgets in excess of the prescribed foundation program.

The second avenue of reform is equalization of fiscal opportunities among school districts within the state. In this approach the state provides an environment of "fiscal neutrality" in which any district can obtain the same level of funding as any other district, provided only that it puts forth the same tax effort.[2] A type of plan variously termed Guaranteed Tax Base (GTB), power equalizing, or variable matching exemplifies the notion of fiscal neutrality. Under such a plan the state guarantees each district a given minimum revenue per pupil at each property tax rate. A district's state aid equals the deficiency between the amount of revenues the district is able to raise using a levy on its property and the amount the same levy would raise if applied to the state-guaranteed tax base. (The Joint Subcommittee received a staff report by Andrea Merrill on April 5, 1982 which explained how a guaranteed tax base might work in Montana.)

These two approaches are different not only in a technical sense but also in terms of their objectives. The Foundation Program provides uniformity while the Guaranteed Tax Base allows diversity.

Montana's existing school finance system follows the foundation program approach except that it does not have an effective budget limitation mechanism.[3] Montana's foundation program does have both a level of funding provided to each school district based on student needs and a uniform tax levy of 55 mills paid almost everywhere in the state.[4] The uniformity provided by this foundation program approach is appropriate for the objective of a minimum level of funding for all the public schools.

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[1] Stephen J. Carroll, "The Search for Equity in School Finance; Summary and Conclusions" (Santa Monica, CA: Rand Corporation, 1979), p.4.

[2] Ibid., p.4.

[3] "School Finance in Montana," Office of Public Instruction Publication F6947-404-/78, 1978.

[4] Some high wealth districts may have a combined elementary and high school levy as low as the required 40 mills; however, for taxpayers in most school districts the minimum rate is 25 mills elementary county equalization, 15 mills high school county equalization, 9 mills elementary permissive and 6 mills high school permissive. for a total of 55 mills.

Local Control

Montana's school finance system makes specific provisions for "local control" by allowing school districts to adopt a voted amount in excess of the amount provided by the foundation program schedules. The issue of setting a limit or cap on school district expenditure growth has been considered at each of the last three legislative sessions--it was rejected each time. The clear implication is that local control over school district budget levels is an objective valued more highly than large foundation program schedule increases.

Since local control and the diversity it creates are inconsistent with the uniformity provided by a foundation program, it is appropriate to consider alternative funding mechanisms. The guaranteed tax base approach, which is completely consistent with local control, is an alternative that still can be explored in Montana. Specifically this study examines the consequences of using the existing foundation program to fund a minimum program for all school districts and a guaranteed tax base program to fund a major portion of the voted levy amount over and above that foundation program. This would be a two-tiered system with equalization in both areas.

Permissive is Guaranteed Tax Base

The Guaranteed Tax Base concept is not new in Montana; the existing Permissive Amount is designed to work as a Guaranteed Tax Base. Within the permissive area of a school district budget, every district is guaranteed a level of funding that corresponds to that district's level of taxation. Also, state permissive payments make up for deficiencies when the district tax does not generate enough revenues to support the guaranteed level of funding.

While the term "permissive" implies that discretion is involved and, in fact, school district trustees are "permitted" to budget this amount on their own authority, the situation now is that only a handful of districts use less than the full permissive amount. In 1981-82 the total amount available for districts to use was $49.3 million; of that amount over 99.9% was budgeted and less than $49 thousand was unused. This means that in actual practice the Permissive Amount has become a mandatory part of the funding for most districts. The function of the Permissive Amount has changed so that now it simply increases the Foundation Program amount by a fixed percentage. At present levels the Permissive Amount does not create an environment of fiscal neutrality within which individual school districts may make their budgeting decisions; almost all budgeting decisions occur above the level of funding affected by the Permissive Amount. As a result, the current Permissive Amount is not effective as a Guaranteed Tax Base mechanism.

Because most districts find it mandatory to use the full Permissive Amount but only the wealthier districts are able to do so without also using the full permissive tax levy, the Permissive Amount currently decreases equalization among school districts. Wealthy districts pay lower taxes. This problem is being addressed by the Joint Subcommittee as a separate issue. (A bill has been drafted that would eliminate the current permissive structure and increase the county equalization mill levy to 55 mills.)

Voted Levy Amount Inequities

There is very clear evidence that high-wealth school districts have lower taxes and higher expenditures per student than do low-wealth districts. This situation exists because a fairly substantial portion of school district expenditures is in the voted levy amount. (See Table 1) In every recent legislative session, both the foundation program schedules and state funding have been increased in an attempt to reduce dependence on the voted levy.

TABLE 1.

Voted Levy Amount in School District
General Fund Budgets, 1974-75 through 1981-82

Year	Total General Fund Budget Amount (millions)*	Voted Levy Amount (Millions)	Voted Levy Percent
1974-75	$ 163.672	$ 41.314	25.2%
1975-76	188.528	49.153	26.1
1976-77	208.777	53.660	25.7
1977-78	225.003	60.790	27.0
1978-79	239.915	66.021	27.5
1979-80	262.598	80.387	30.6
1980-81	292.294	98.084	33.6
1981-82	326.257	103.015	31.6

*Special Education excluded.

The objective of reducing the voted levy amount is strongly motivated--as evidenced by the size of the appropriations for foundation program increases; however, the effect of past efforts toward this objective has been to slow the rate of increase rather than to cause substantial reduction in the voted levy amount. Since the voted levy amount has remained large, the inequities caused by it are very significant.

Budget level by size of district and by wealth for 1981-82 is shown in Figure 1 (elementary) and Figure 2 (high school). Each school district has been classified according to wealth as measured by Taxable Value per Average Number Belonging. The four quartiles are designated by separate symbols as follows:

Quartile	--Taxable Value Per ANB-- Elementary	High School	Symbol
I (lowest)	$ 320-12,184	$ 880-24,775	·
II	12,185-22,877	24,776-36,859	-
III	22,878-50,562	36,860-68,571	+
IV (highest)	50,563-10,516,131	68,572-450,262	#

Note: Since each data point plotted on the scatter diagram may represent more than one school district, it is possible for a single point to represent multiple districts drawn from two or more quartiles. Such occurances are indicated using the symbol "0".

The horizontal axis indicates district size measured in ANB. (Since the range of district size is so great, a logarithmic scale has been used.) The vertical axis indicates budget level on a relative scale with 1.00 corresponding to the Maximum-Budget-Without-a-Vote (Foundation plus permissive) amount:

Figure 1. Budget Level by Size of District, Elementary 1981-82

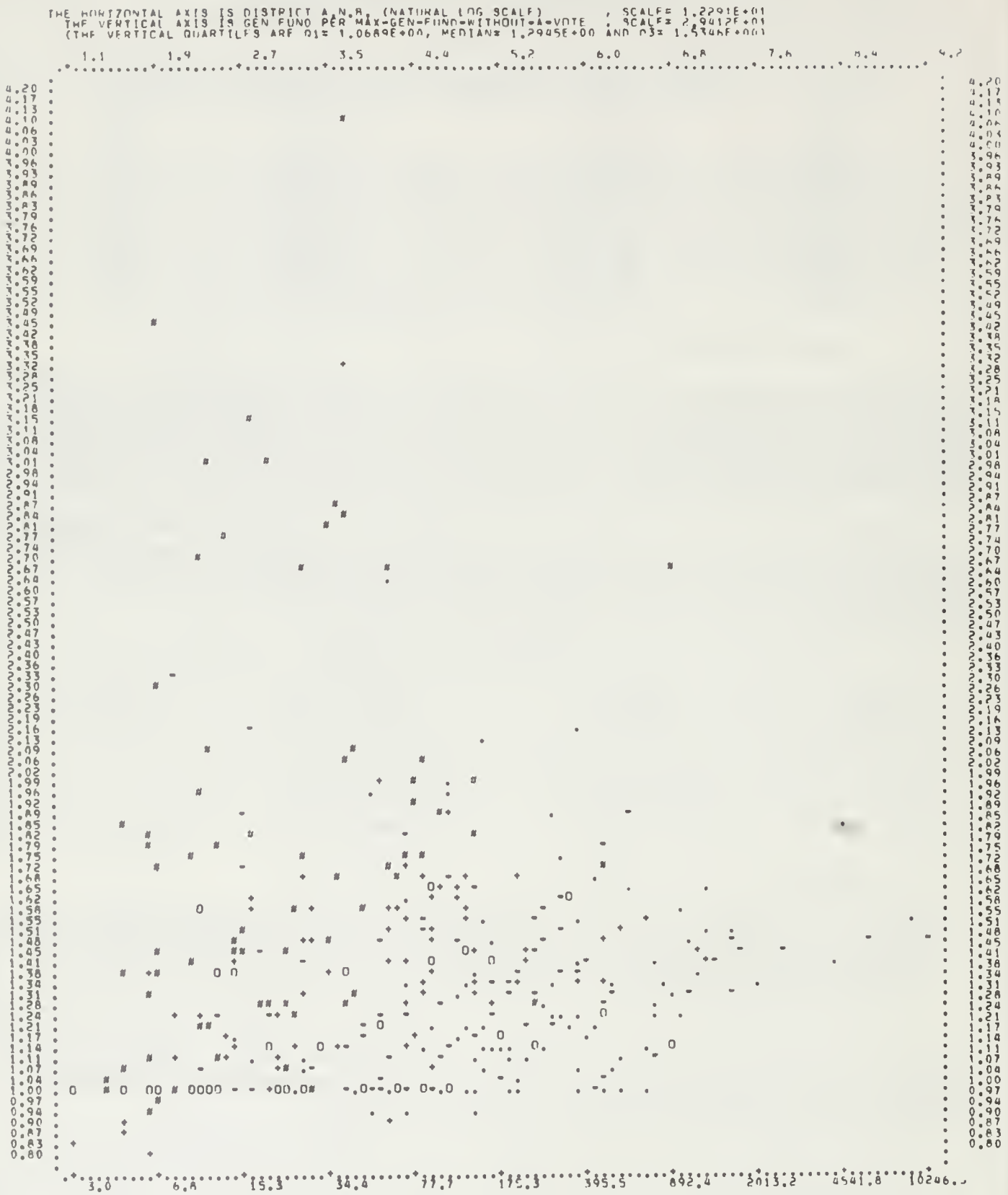
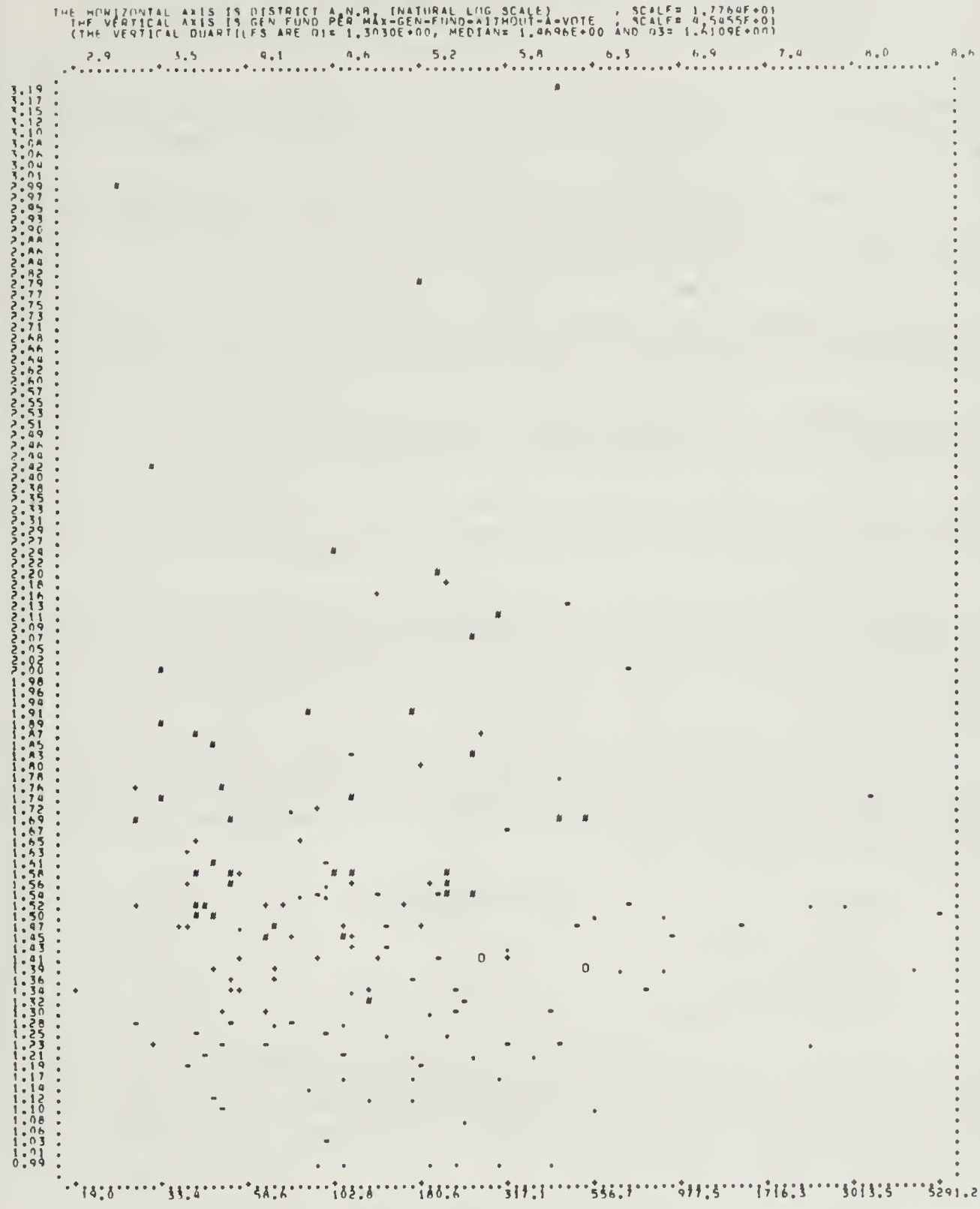


Figure 2. Budget Level by Size of District, High School 1981-82



Budget Level	Description
0 - 0.80	Foundation Program
0.80 - 1.00	Permissive Amount
1.00	Maximum-Budget-Without-a-Vote
above 1.00	Voted Amount

To summarize: Large districts are on the right, small districts are on the left; high-spending districts are on the top, low-spending districts are on the bottom; wealthy districts are symbolized by "#", poor districts are symbolized by ".".

For both levels, elementary and high school, the highest spending districts (top) are the wealthy districts; except for Colstrip, none are very large. The largest districts (right) have moderate budget levels; all of them use voted levies; and they are in the lower two quartiles of wealth (symbols "." and "-").

Figure 3 (elementary) and Figure 4 (high school) show the actual mill levy rates by budget level and by wealth for 1981-82. The symbols used again designate the quartiles of wealth as measured by Taxable Value per Average Number Belonging.

The horizontal axis indicates budget level with 1.ØØ corresponding to the Maximum-Budget-Without-a-Vote. The vertical axis is the number of mills levied on school district property to pay the district share of its general fund budget.

To summarize: High-spending districts on the right, low-spending districts are on the left; high tax rates are at the top, low tax rates are at the bottom; wealthy districts are symbolized by "#", poor districts are symbolized by ".".

Figure 3 provides a striking illustration of the present inequities. The lower righthand corner, which corresponds to high spending and low tax rates, is occupied exclusively by districts in the highest wealth quartile ("#"); districts in the lowest wealth quartile (".") are clustered on the lefthand side rising rapidly towards the high tax rates with relatively small increases in budget level.

There are two exceptions to this pattern. First, several low-wealth districts (".") are arranged along the bottom of the scatter diagram. They have no property taxes but some have relatively high budget levels. Such districts have income from non-tax sources. For 1980-81 Montana school districts reported general fund revenues from non-tax sources as follows:

Source	Amount (millions)
Tuition Earnings	$ 1.67
Interest	5.12
Miscellaneous	1.30
Federal Impact Aid (P.L.874)	14.24

Some of the poorest districts are "property wealth poor" because the federal government has withheld land from the property tax rolls; however, those same districts are compensated directly by the federal government through federal impact aid. Thus, some of the districts with moderately large "voted" amounts in their budget use non-tax revenues to finance those budgets.

Figure 3. General Fund Mill Rates by Budget Level, Elementary

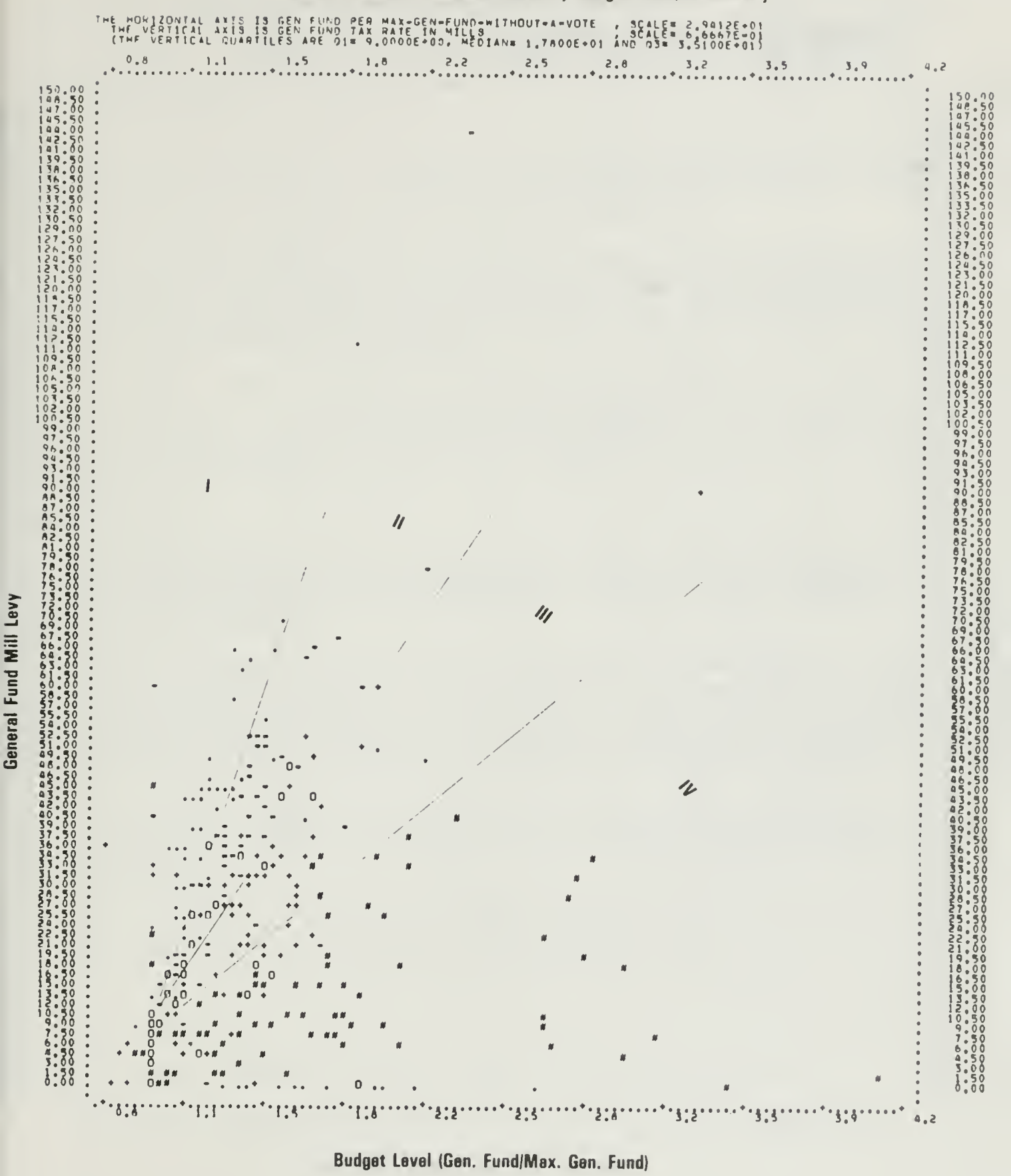


Figure 4. General Fund Mill Rates by Budget Level, High School

The second exception is a group of elementary districts from the top wealth quartiles ("4" and "+") found on the lefthand edge of the scatter diagram. These are elementary districts with fewer than 10 ANB that have not been approved as isolated; they are required to pay half of their own foundation program because of their non-isolated status. That substantial penalty requires them to have higher tax rates than other districts with comparable budget levels. (There is no penalty for small, non-isolated high school districts.)

If one disregards these two exceptions, it is possible to sketch in the approximate boundaries that separate the four quartiles; this has been done in Figure 3. Again, the situation is that wealthy districts have higher budget levels and lower taxes while poor districts have lower budget levels and higher taxes.

From the data it appears that very few districts are willing to set their mill levy above 66 mills for elementary or 46 mills for high school. Such limits do not affect districts with an adequate tax base but they do limit the budget levels of poor districts. These districts are prime candidates as plaintiffs challenging Montana's existing school finance system.

For example, Clancy Elementary has a general fund levy of 66.43 mills even though two thirds of the elementary students in the state are in districts with higher budget levels. Similarly, Centerville High School has a general fund levy of 43.70 mills even though 83% of all high school students in the state are in districts having higher budget levels.

Non-Tax Revenues

As indicated above some school districts have access to such large amounts of non-tax revenues that district property taxes are eliminated. None of Montana's existing funding mechanisms make any adjustment to state aid payments based on wealth from non-tax sources.

Whenever a district is poor because it contains large tracts of federal land that are not taxable, it becomes eligible for federal impact aid; however, if that same district receives additional state aid because it is poor, then it receives both state and federal compensation for the same cause. As the state effort to equalize among districts becomes more effective, this problem is exaggerated. Districts impacted are those on Indian reservations, national forests and military bases.

In order for a state to make adjustments to state aid based on the federal impact aid revenues received by each district, the state must meet the conditions of certain federal regulations.[5] Specifically, the state finance system for schools must be equitable.

Both the problems of adjusting for non-tax revenues and meeting the requirements of federal regulations are considered in the study that follows.

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[5]Code of Federal Regulations, Title 34, Chapter II, Section 222.60 ff.

A Guaranteed Tax Base Simulation

There are several critical questions concerning any new method of providing state equalization to school districts. Some questions dealt with here are

- How much will it cost?
- How will it affect individual school districts?
- What options are available?
- How does it compare with other approaches?
- Does it improve equalization?
- Does it provide property tax relief?

This simulation uses school district budget data from 1981-82 with detail by district. Since guaranteed tax base is a broad approach to funding for public schools, implementation would require precise specifications of the options within that approach. This simulation uses a computer program that 1) requests input of parameters for each option, 2) calculates the effect of that set of parameters on each school district and 3) summarizes the results in terms of tabulations and statistical analysis. A detailed report of the effects on each district may be requested.

Option Selection

There are two parameters that define the guaranteed tax base formula. The first is the guarantee that applies to taxable value per ANB (TV/ANB); the second is the guarantee that applies to budget level (GTB-Ratio). Other parameters are peripheral to the guaranteed tax base formula: a schedule increase parameter allows the foundation program to be increased by a fixed percentage in conjunction with the guaranteed tax base; a general fund growth parameter allows the general fund of each district to be increased by a fixed percentage (to allow for possible inflation); and a parameter allows adjustments for non-tax wealth. It is also possible to force all low-budget districts to increase their budgets up to the guaranteed budget level.

For the purpose of this study a wide variety of options have been simulated systematically to examine the effects of the various parameters. Results from 21 of these simulations are tabulated in Appendix A. A sample of the summary computer report for option EØ14 is given in Appendix B. The options in Appendix A are related to each other and to a set of "core parameters" as follows:

Core Parameters (Options E012 through E015):

1) TV/ANB = State average
   Elementary = $19,193
   High School = 39,822

2) GTB-Ratio (Guaranteed Budget Level)
   Option E012 = 0.4 (40% above the Foundation Program schedules)
   Option E013 = 0.45
   Option E014 = 0.5
   Option E015 = 0.55

3) Schedule Increase = 0%

4) General Fund Growth = 0%

5) Non-Tax Wealth Adjustment = 70%

Option Description

AØØØ	--	Status Quo - No guaranteed tax base, schedule increase or budget growth.
C125	--	12.5% schedule increase but no guaranteed tax base; same "cost" as option EØ14.
EØ12-EØ15	--	Core parameters.
EØ11	--	Extensions of core parameters, GTB-Ratio = 0.333.
EØ22-EØ25	--	Same as core parameters except TV/ANB = 80% of state average.
EØ32-EØ35	--	Same as core parameters except TV/ANB = 120% of state average.
DØ12-DØ15	--	Same as core parameters except Non-Tax Wealth Adjustment = 0%
E114	--	Same as EØ14 except General Fund Growth (inflation) = 10%
EX14	--	Same as EØ14 except all low-spending districts forced to increase budgets to use full guarantee amount.

Results and Evaluations

The purpose of this study is to evaluate the guaranteed tax base approach to improving equalization. The results stated below and depicted graphically deal with the costs, impacts and equalization effectiveness.

A fairly complete statistical analysis has been included as a part of the summary for each option and those results are tabulated in Appendix A; however, since this report is intended for a non-technical audience, there is no further discussion here of the coefficients of variation, regression slopes or correlation coefficients. Interested readers are referred elsewhere.[6]

To answer the question, "Does it improve equalization?", some technical discussion is required. Please recall that a guaranteed tax base improves equalization by providing "fiscal neutrality" or "wealth neutrality" and that in a fiscally neutral environment any district can obtain the same level of funding as any other district, provided only that it puts forth the same tax effort. The problem then is to measure fiscal neutrality and to determine how much of it is enough.

There are a variety of measures of fiscal neutrality[7]; however, the most straightforward one is the "wealth neutrality test" which has been provided in the federal regulations for states to use in evaluating their own school finance systems.[8] In this test "wealth neutral revenues" are defined as "revenues received by a local education agency which are not derived from any wealth advantage that a local

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[6]Robert Berne, "A Methodological Assessment of Education Equality and Wealth Neutrality Measures," (Denver, Co: Education Commission of the States, 1978).

[7]Ibid.

[8]Code of Federal Regulations, op cit. Section 222.64.

FIGURE 5. WEALTH NEUTRALITY
(PROJECTIONS BASED ON 1981-82 DATA)

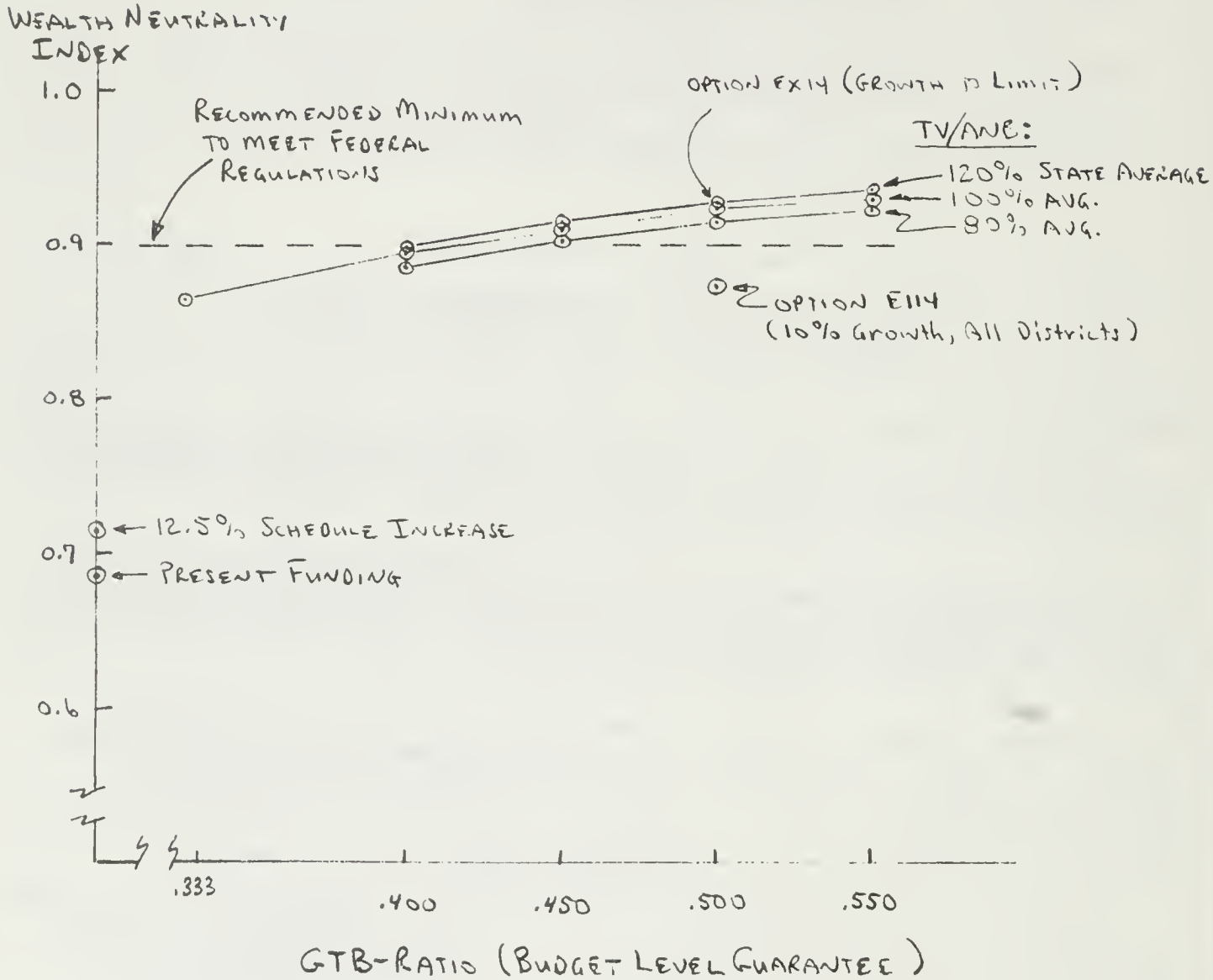
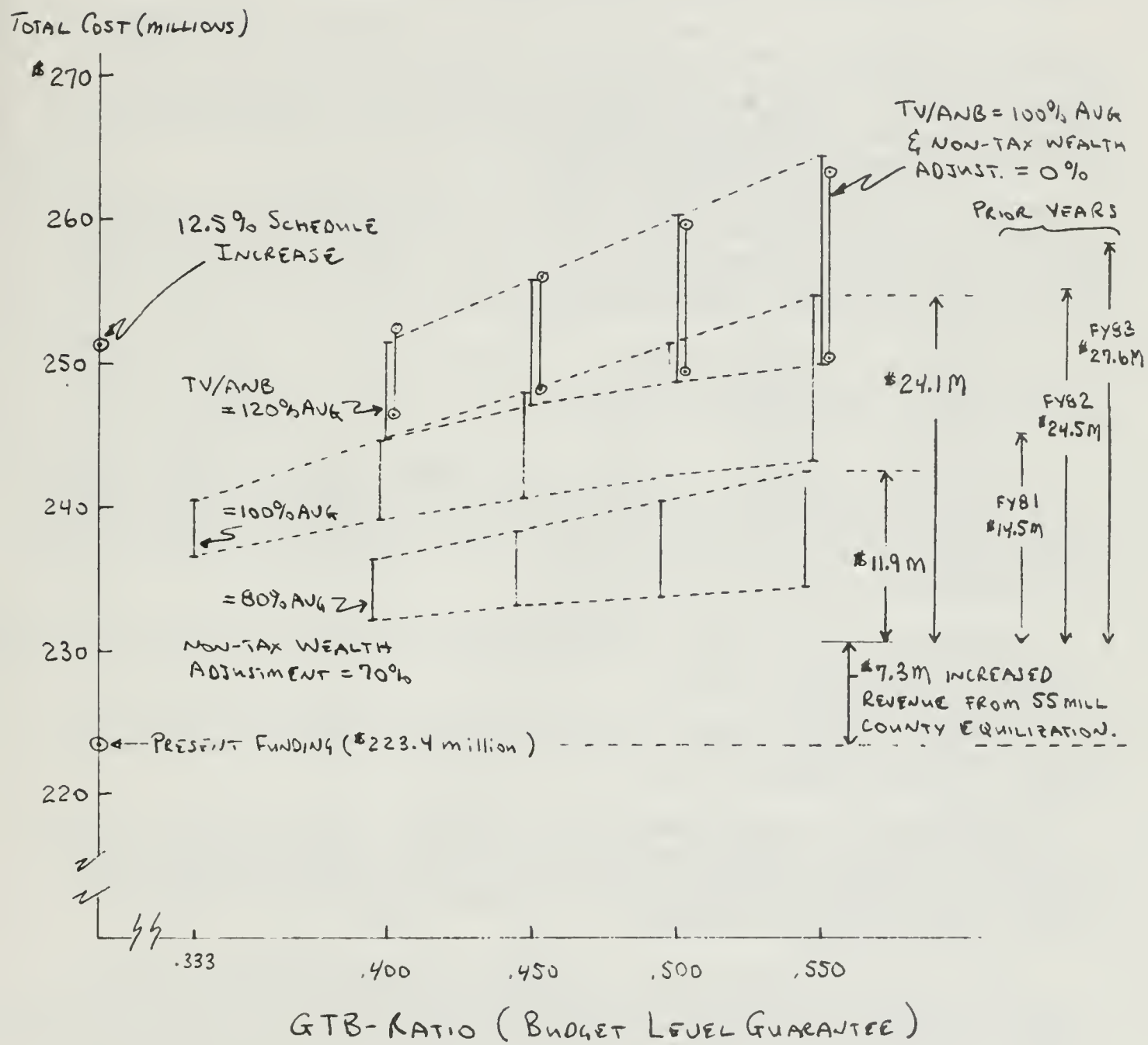


FIGURE 6. TOTAL COST, MINIMUM-MAXIMUM RANGE
(PROJECTIONS BASED ON 1981-82 DATA)



education agency may have over any other agency in a State." The standard for comparison is the poorest district in the state--if all districts were as poor as the poorest one, how much revenue would be available to school districts? These would be the "wealth neutral revenues."

Since a guaranteed tax base establishes a minimum tax base for poor districts, it substantially increases the wealth (i.e., access to resources) of the poorest districts. As the standard of comparison is raised, an increased portion of total school district revenues is included in the "wealth neutral revenues" and equalization is increased. The wealth neutrality index is simply the ratio of wealth neutral revenues to total revenues. This index is plotted for several options in Figure 5.

In this figure (and in the next three figures) the GTB-RATIO (budget level guarantee) increases from left to right. All of the options cause a relatively high wealth neutrality index except the options for "present funding" and for "12.5% schedule increase." Changes in the TV/ANB parameter (tax base guarantee) have only a slight effect on wealth neutrality; changes in the GTB-RATIO (budget level guarantee) have a greater impact for the ranges examined.

Whenever a state intends to adjust state aid to school districts to take into account federal impact aid, that state must meet federal regulations by having a wealth neutrality index no less than 0.85; the author suggests that 0.90 would be a more prudent minimum wealth neutrality index to use in establishing a new guaranteed tax base system in Montana. This recommended minimum is indicated in Figure 5.

Cost figures are plotted in Figure 6. The present funding shown there is the combined amount for foundation program and the entire permissive amount. Whether or not any change is made concerning the permissive amount, the incremental costs shown for the guaranteed tax base will be the same.

For each set of options a range of figures is given. The lower limit corresponds to the present (1981-82) school district budget levels; the upper limit would result if every district decided to increase its budget up to the maximum guaranteed budget level. Neither of these two extremes is very likely. (The minimum and maximum costs for each option are tabulated in Appendix A.)

The cost of a 12.5% foundation program schedule increase is also shown. No range is given because this form of increase automatically increases the state obligation independent of any district decisions.

The impact on individual districts may be observed by looking at a printout of district detail information for any option. In addition, there are some impact statistics plotted in Figures 7 and 8.

The guaranteed tax base is used in this simulation to equalize funding for the voted levy amount, not to reduce the total voted amount. Thus the voted levy amount would have an equalized and an unequalized portion. The unequalized portion--the portion above the guaranteed budget level--is shown as a percentage of the total general fund budget amount in Figure 7.

Finally, the guaranteed tax base is designed to provide additional financial resources only to districts that need help the most, the "poor" districts; this approach contrasts with foundation program schedule increases in which all districts receive additional funding whether or not they need it. The classification of districts into "poor" and "wealthy" is done by setting a guaranteed tax base level (TV/ANB). Districts above that level would receive no guaranteed tax base state aid; districts slightly below that level would receive some aid; and districts with very low property wealth and little non-tax revenue would receive the most aid.

FIGURE 1. UNEQUALIZED VOTED, PERCENT OF GENERAL FUND
(PROJECTIONS BASED ON 1981-82 DATA.)

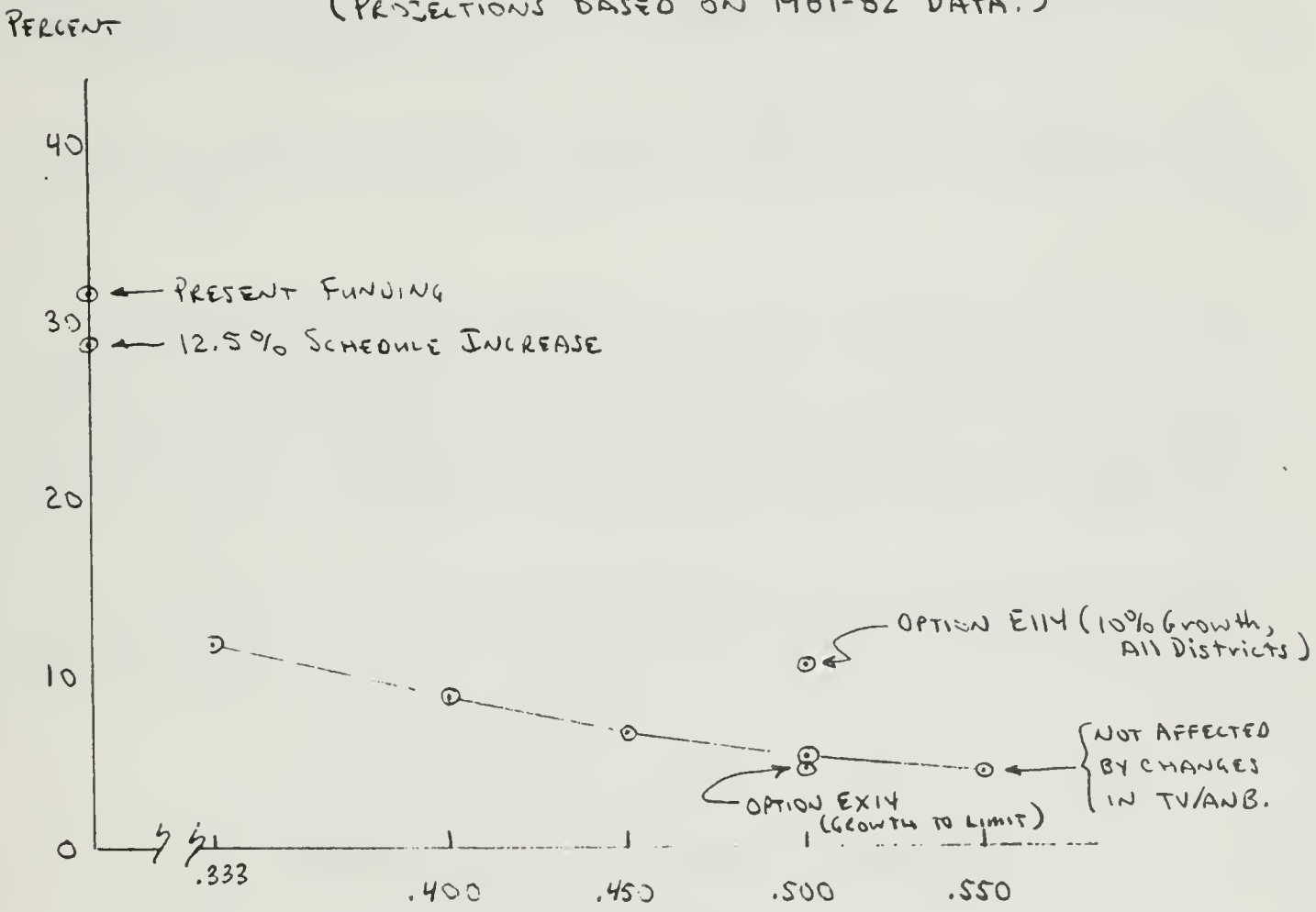
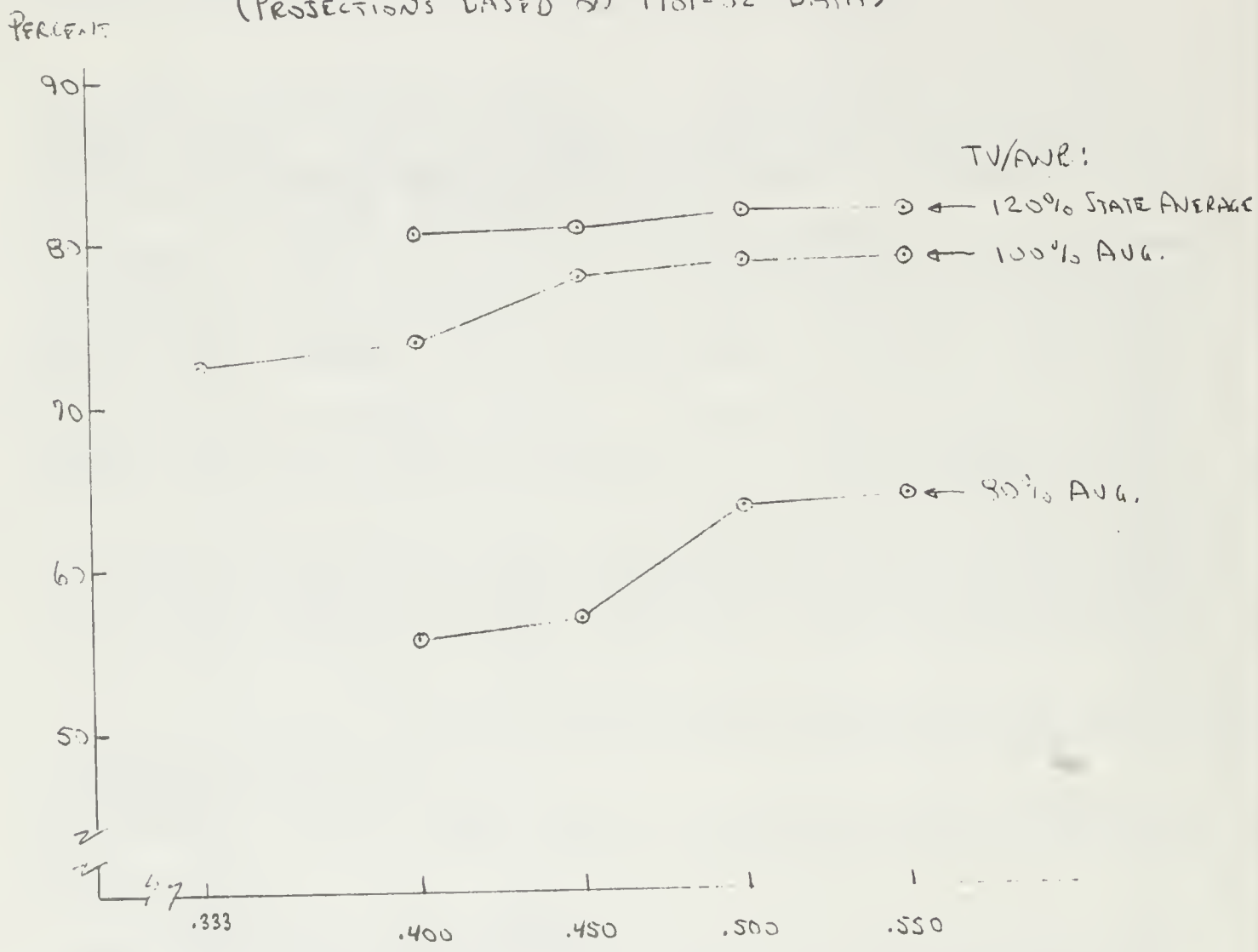


FIGURE 8. PERCENT OF STUDENTS IN DISTRICTS ELIGIBLE FOR GUARANTEED TAX BASE AID. (PROJECTIONS BASED ON 1981-82 DATA)



Thus, an increase in the guaranteed tax base level allows more districts under the threshold such that they become eligible for some aid. Figure 8 shows the percent of students within eligible districts for several options of the guaranteed tax base.

Increasing the guaranteed tax base level (TV/ANB) from 80% of the state average to 100% causes a large increase in the percent of students in eligible districts because some of the larger school districts are just slightly below the state average wealth.

However, if one looks back to Figure 5, that same increase in guaranteed tax base level (TV/ANB) causes only a small increase in wealth neutrality, and in Figure 6 it causes a substantial increase in cost of the program.

The obvious trade-off is that to include a greater portion of the state's population within the program, it is necessary to set the guaranteed tax base (TV/ANB) relatively high, but to control costs of the program the guaranteed tax base (TV/ANB) must be set lower. At the same time, increases in the guaranteed tax base level (GTB-RATIO) significantly increase wealth neutrality while not increasing maximum cost to the state by as large an amount.

Costs for an effective guaranteed tax base program would be high--in the same range that is usually considered for foundation program schedule increases--but such a program could provide substantial equalization for the voted levy portion of school district budgets.

Funding

The guaranteed tax base is not designed to provide property tax relief; it only improves state equalization. If no funds are available for the state to use in funding a guaranteed tax base, it could be funded using a statewide property tax. Such an approach would not provide property tax relief but it would provide improved equalization; unequalized district mill levies would be replaced by a uniform statewide levy. The net result would be higher property taxes in some of the wealthier school districts and lower property taxes--or higher budget levels--in some of the poorer districts.

If action is taken to combine the foundation program and the permissive amount and to fix the tax for that combination at 55 mills, there will be increased state revenue of about $7.3 million which could be used to help fund this guaranteed tax base program.

February 9, 1982
Staff Report

COUNTY RETIREMENT LEVIES: SHOULD THE BURDEN BE EQUALIZED?

The statewide equalization of county retirement levies has been suggested as an important reform of the Montana school finance structure. (1:36, 2:13)* The following report presents the background of the problem and concludes with some suggestions for instituting equalization of the retirement levies.

What the Retirement Levies Cover

The school districts' costs that are included in the county retirement fund levies are governed by statute (3) and are unavoidable, basic expenses of operating public schools. These costs may include some or all of the following:

-- teachers' retirement which is mandatory for all certified school personnel (the district must contribute 6.463% of payroll and the employee must contribute 6.187% of his/her pay); (4)

-- public employees' retirement, if noncertified employees (secretaries, etc.) have contracted with a district to join PERS as authorized by 19-3-201, MCA, (district pays 6.32% and employee pays 6%); (5)

-- Social Security for certified and noncertified personnel, if employees have contracted with a district to participate (a large majority of employees choose to participate); (6)

-- the mandatory employer's contribution for unemployment insurance;

-- an appropriation to the retirement fund cash reserve which shall not exceed 35% of the final retirement fund budget for the ensuing school year. (3) This fund is used for the purpose of paying retirement fund warrants during the budget year and, if invested, may collect interest which can be used to reduce future levies. Most districts have built up their cash reserve funds to the maximum level allowed.

The trustees of a district submit a retirement budget to the county superintendent of schools. The superintendent totals the net levy requirements separately for all elementary and all high school districts (including prorated joint districts and special education cooperatives). He submits the two separate levy

*Numbers presented in this manner refer to selected references listed at the end of the report; a number following a colon refers to the page number within the reference document.

requirements to the county commissioners who, in turn, set each county levy. The districts receive their proportion of the levy effort, minus any proportional loss due to tax delinquencies.

Legislative History of the Retirement Levies

The countywide levy in support of high school teachers' retirement was created under Chapter 137, Laws of 1945. According to that same chapter, elementary retirement was a district general fund budget obligation, to be supported by a special levy only if the requirements exceeded the value of 10 mills on district property.

Under Chapter 281, Laws of 1973, elementary retirement was removed from the general fund budget and imposed as a countywide levy. Social Security for any employee of a school who contracted to participate was lifted from the general fund and included in the countywide retirement levies. That year, the shifting of Social Security allowed most schools a 5% increase in budgeting authority for other purposes.* (7)

Chapter 202, Laws of 1975, added the mandatory employer's contributions for unemployment insurance to the countywide levies. The 1979 Legislature, under Chapter 481, deleted the various retirement costs from the special education budget and permitted such costs to be included in the countywide levies.

The aforementioned changes did equalize the various retirement costs within the counties; however, the changes added a significant new property tax burden, in support of basic school costs, that is not equalized from county to county. The changes in the makeup of the levies, plus legislated increases in employer contribution levels, have caused the retirement levy obligation to grow at a higher rate than any other school cost. In the years since 1973, the high school retirement levy has increased by 600%; the elementary retirement levy has experienced a 544% increase. For 1979-80, the trustees' financial summary shows that retirement ($27,923,122) accounted for 6% of total school costs ($438,701,743). (8)

It should be noted that the 1981 Legislature passed a resolution, SJR 25, requesting a study of the funding of the county retirement levies. The resolution received a low priority rating for interim study, but that may have been because so many legislators favored studying the larger school finance picture.

School Employee Retirement in Other States

The following information shows how teachers' retirement is funded in other states. (9), (10) It was not possible to determine how other states handle Social Security, unemployment insurance, and retirement for noncertified school employees.

*In 1973, statewide Social Security totaled $6,646,843, as compared to $6,996,174 for retirement.

-- 25 states pay all of the employer's contribution, either as a percentage of payroll or by lump sum appropriation. Within this group, 7 states pay the employer's contribution because it is considered part of the basic school aid program. 11 states that pay include teachers in the public employees' retirement system.

-- In 10 states, the state and the local district split the employer's costs.

-- In 15 states, the local district alone pays employer's costs. 9 of these states consider teachers as public employees.

-- 5 states don't require any employee contribution:

Florida - recent change to a district contribution of 9.1%

New York - since 1970, the local district pays 21.4%

Michigan - state/local split of 10%

New Jersey - considered part of state aid so the state pays on 10% of salaries

Wyoming - some employees contribute and other don't, with local matching

-- 3 states claim to equalize local retirement costs:

Virginia - state pays a district for 48 teachers per 1,000 students, using an average salary schedule

Louisiana - costs are equalized using a minimum salary schedule

California - state pays on a wealth-related formula in addition to a large lump sum appropriation to the retirement system

-- For all the states, the average teacher contributes 5-6% and the average employer contribution is 8%.

Montana Inequities Illustrated in Table I

Table I reveals the inequities of county taxation to cover school employee retirement benefits. In the lowest quartile of counties

by taxable valuation per ANB, 11 of the 14 counties are also included in the highest quartile for size of mill levy to pay employee benefits. When the top quartile of counties by taxable value per ANB is compared to the lowest quartile of counties according to size of retirement levy, it is found that all counties but one are in both groups. Following the final column of Table I, showing retirement budget dollars per ANB, the average percentage for each quartile is calculated. The counties of highest taxable value per ANB spend an average of $36 more than the counties with the lowest wealth per ANB.

It is interesting to note that Sheridan, one of the wealthiest counties, is spending the lowest amount per ANB for employee benefits. The county retirement amount per ANB can be influenced by several factors: some districts budget up to the 35% allowed for the retirement cash reserve fund; some small districts do not have to budget for retirement benefits for employees such as secretaries or janitors; some districts, such as Butte, have salary schedules well above the state average; some districts may have accrued a cash reserve high enough to significantly reduce the ensuing year's levy requirement.

Options for Equalization

The 1981-82 statewide retirement obligation is $37,665,475. That represents a 14% growth over the 1980-81 amount of $33,139,871. The average retirement expenditure per ANB is $244.

Given the preceding information, the following options are offered for consideration:

(1) The state could guarantee each district at least the average expenditure per ANB times the number of students of the district. The districts above the average would need a district mill levy to cover the difference between the guarantee and the required budget. Districts below the average might not need all the guarantee. The information needed to tabulate how many districts would not need all the guarantee (and how much money this would represent) has not been calculated at this time because the necessary 1981-82 data have not been computerized at the Office of Public Instruction. A "guestimate" would place the cost of this formula at $1,000,000 less than the $37,665,475 listed on Table I.

The countywide levy could be eliminated because a program of equalization would exist that was independent of taxable valuation. Districts would be individually responsible for keeping costs as close to the average as possible so they would not require a large additional levy.

The guaranteed average expenditure per ANB could be derived from the previous year's total contributions into the various retirement programs. This would provide a dependable state source of information on which to base the funding program. Also, this method of arriving at an average per ANB would not include any money budgeted for a cash reserve fund.

(2) Representative Ken Nordtvedt, in his written testimony to Subcommittee members, has suggested that the state guarantee each county $100 per ANB to be applied toward reducing that county's retirement levies. This scheme differs from option (1) in that the districts' remaining obligations would still be pooled for a countywide levy; such a plan would not be as equitable because taxpavers in lower spending districts would continue to pay for districts with higher than average retirement costs. This plan would have cost $15,425,600 for 1981-82. Representative Nordtvedt also suggested that each successive Legislature could adjust the $100 figure for inflation or other factors.

(3) The guarantee could be set at a certain percentage of the average expenditure per ANB, such as 80%.

(4) The retirement fund of a district could be included in the general fund budget as an add-on cost,like special education. The district would be guaranteed an amount per ANB (like an allowable cost) and this would be added to the amount allowed by the schedules. The foundation program would fund 80% and the permissive would pick up the rest.

For the poorer districts, most of the 20% would be subsidized by the state permissive guarantee, since they are already levying the maximum millage permitted by law for support of the permissive portion. The relatively wealthy districts and will bear some of the burden for the 20% out of their own permissive revenues.

Of course, additional funding for the foundation program would need to be considered, either through increased state appropriations or increased county equalization or both (see funding options for further detail).

Funding Options

If a decision is made to equalize retirement funding, the following funding options are available:

(1) A legislative appropriation based on the chosen formula and distributed through the Office of Public Instruction to either the counties or the individual districts. Such an appropriation could fund equalized retirement either within the general fund (option 4) or as a separate fund (options 1 and 2). Using 1981-82 figures, the appropriation would be approximately $36,500,000.

(2) A uniform mill levy on the taxable valuation of the counties, like the 25- and 15-mill county equalization levies that have been upheld by the Montana Supreme

Court.* Again, this option could fund equalized retirement either within the general fund or as a separate fund. If the retirement guarantee were placed within the general fund, the same mechanisms used to collect and distribute proceeds from the 15- and 25-mill levies could be used for the equalized retirement levy.

(3) A combination of appropriation and uniform mill levy that would split the burden between the state and counties. The funding might be divided in this manner:

$ 2,000,000 - value of 1 statewide mill
x 9 - county mill levy for retirement

$18,000,000 amount raised from uniform levy of 9 mills
+ $18,000,000 state appropriation

$36,000,000 approximate cost for 1981-82

Regardless of the funding option selected, it is recommended that any remainder of the district share after equalization be supported by a district levy, rather than a continuation of the countywide levy system.

*State ex rel Woodahl v. Straub, 174, Mont. 141, 520 P.2d 776 (1974).

SELECTED REFERENCES

1. George R. Bandy, "Financing the Public Schools of Montana," A Report to the Superintendent of Public Instruction, 1980, p. 36.

2. Mary Frase Williams, "Report on Education Finance Issues in Montana and Options for Further Study," A Report to the Joint Subcommittee on Education, Montana Legislature, January 1982, p. 13.

3. 20-9-501, MCA.

4. 19-4-602 and 19-4-605, MCA.

5. 19-3-701 and 19-3-801, MCA.

6. 19-1-801 through 19-1-814, MCA.

7. Minutes of the House Education Committee, February 23, 1973. Montana Historical Society Library.

8. Trustees' Financial Summary, 1979-80. Office of Public Instruction.

9. Retirement System Provision Survey - 1979, National Education Association, 1980.

10. Esther O. Tron, Public School Finance Programs, 1977-78, U.S. Government Printing Office, Washington, D.C., 1980.

TABLE I
RANK ORDER COMPARISON OF COUNTY TAXABLE VALUE PER ANB
AND THE COMBINED HIGH SCHOOL AND ELEMENTARY
RETIREMENT LEVIES: 1981-82

County	Taxable Valuation	ANB	TV/ANB	High/Low Ranking TV/ANB	Low/High Ranking Levy Amount	Combined H.S./Elem. Levy	Dollars Retirement	Retirement $/ANB	
Powder River	$ 64,201,907	548	$117,157	1	1	2.14	$ 137,108	$250	
Fallon	65,856,409	823	80,020	2	4	5.31	349,698	425	
Sheridan	74,401,204	1,078	69,018	3	2	2.44	180,442	167	
Big Horn	108,103,481	2,328	46,436	4	3	5.12	545,847	265	
Rosebud	118,341,263	2,760	42,877	5	9	7.43	879,150	319	
Liberty	18,961,285	474	40,003	6	6	6.27	118,880	251	
Richland	106,319,652	2,658	40,000	7	5	5.78	614,456	231	1st
Toole	40,308,476	1,045	38,573	8	8	7.10	286,607	274	quartile
Wibaux	13,208,435	367	35,990	9	7	6.62	87,346	238	average
Musselshell	23,964,123	876	27,356	10	10	8.02	192,170	219	
Chouteau	28,692,605	1,171	24,503	11	12	11.21	318,853	272	$269
Carter	7,707,430	315	24,468	12	11	11.01	84,753	269	
Petroleum	3,284,530	135	24,330	13	19	14.86	48,975	363	
Phillips	26,645,930	1,108	24,049	14	13	11.27	300,317	217	
Blaine	33,985,291	1,593	21,334	15	15	12.43	422,172	265	
Garfield	6,689,512	321	20,840	16	16	12.70	84,839	264	
McCone	11,932,170	604	19,755	17	14	12.02	143,500	238	
Golden Valley	4,376,586	227	19,280	18	20	15.05	65,868	290	
Treasure	3,973,745	209	19,013	19	23	15.75	50,983	244	
Glacier	47,745,481	2,664	17,922	20	26	17.96	832,416	312	
Carbon	26,613,349	1,555	17,115	21	24	16.39	436,055	280	2nd
Pondera	23,460,616	1,458	16,091	22	31	19.19	449,998	309	
Judith Basin	8,935,501	561	15,928	23	22	15.69	157,005	280	quartile
Daniels	8,689,614	571	15,218	24	34	20.45	132,794	232	average
Teton	19,318,101	1,270	15,210	25	21	15.22	293,879	231	
Prairie	5,669,003	381	14,879	26	18	14.82	83,966	220	$264
Roosevelt	37,331,281	2,558	14,594	27	17	14.41	607,080	237	
Madison	14,899,775	1,025	14,536	28	32	19.92	296,793	290	

TABLE I

con't)

County	Taxable Valuation	ANB	TV/ANB	High/Low Ranking TV/ANB	Low/High Ranking Levy Amount	Combined H.S./Elem. Levy	Dollars Retirement	Retirement $/ANB	
Meagher	5,329,396	398	13,390	29	27	18.54	98,688	248	
Hill	43,774,888	3,387	12,924	30	35	21.32	932,894	275	
Wheatland	5,182,061	408	12,701	31	33	20.08	103,843	255	
Sweet Grass	7,434,377	621	11,973	32	30	19.14	141,895	228	
Dawson	27,190,039	2,301	11,817	33	29	19.02	516,538	224	
Stillwater	14,086,229	1,210	11,642	34	39	24.18	340,605	281	
Broadwater	7,593,794	677	11,217	35	25	16.62	125,924	186	3rd
Missoula	135,776,199	12,742	10,656	36	46	28.42	3,859,235	303	quartile
Sanders	20,070,410	1,896	10,586	37	28	18.87	378,920	200	average
Valley	23,141,353	2,225	10,401	38	45	27.72	639,106	287	$244
Beaverhead	15,802,865	1,613	9,797	39	41	24.82	346,534	215	
Fergus	23,351,152	2,390	9,770	40	37	23.47	547,998	229	
Granite	5,946,425	618	9,622	41	43	25.90	153,665	249	
Custer	20,273,043	2,127	9,531	42	42	25.19	510,816	240	
Powell	12,503,635	1,320	9,472	43	38	23.80	297,552	225	
Yellowstone	192,219,421	20,324	9,458	44	36	22.81	4,384,525	216	
Gallatin	62,945,323	6,810	9,243	45	40	24.62	1,549,714	228	
Flathead	85,037,337	11,030	7,710	46	44	26.66	2,247,042	204	
Lincoln	31,110,982	4,036	7,708	47	52	35.39	1,101,248	273	
Park	18,755,883	2,452	7,649	48	49	33.19	622,294	254	
Silver Bow	51,688,440	7,057	7,324	49	55	41.14	2,125,809	301	4th
Jefferson	11,565,492	1,686	6,860	50	47	31.71	371,463	220	quartile
Lake	27,619,123	4,047	6,825	51	50	33.91	936,331	231	average
Lewis and Clark	58,534,258	8,997	6,506	52	48	32.86	1,919,739	213	
Cascade	95,264,636	14,676	6,491	53	54	37.29	3,552,418	242	$233
Deer Lodge	15,352,636	2,508	6,121	54	51	34.94	536,204	214	
Mineral	4,891,317	889	5,502	55	56	47.34	231,536	260	
Ravalli	24,236,268	5,128	4,726	56	53	36.76	890,989	174	
State Total	$2,000,293,737	154,256	$20,252 average			19.68 average	$37,665,475	$244 average	

Sources: Columns 1, 2, 6, and 7 obtained from the Office of Public Instruction.

A COMPARISON OF CURRENT COMBINED HIGH SCHOOL AND
ELEMENTARY RETIREMENT LEVIES AND THE LEVY REDUCTIONS
UNDER PROPOSED STATE EQUALIZATION OF THE RETIREMENT LEVIES
(Counties Ranked by Taxable Valuation per ANB)

County	1981-82 Levies	Levies if $100/ANB	Levies if $50/ANB	Levies if $25/ANB
Powder River	2.14	1.28	1.71	1.92
Fallon	5.31	4.06	4.68	4.99
Sheridan	2.44	.98	1.70	2.06
Big Horn	5.12	2.90	3.97	4.51
Rosebud	7.43	5.10	6.26	6.84
Liberty	6.27	3.77	5.02	5.64
Richland	5.78	3.28	4.53	5.15
Toole	7.10	4.52	5.81	6.46
Wibaux	6.62	3.83	5.22	5.92
Musselshell	8.02	4.36	6.19	7.11
Chouteau	11.21	7.03	9.07	10.09
Carter	11.01	6.91	8.95	9.98
Petroleum	14.86	10.80	12.85	13.88
Phillips	11.27	7.11	9.19	10.23
Blaine	12.43	7.73	10.08	11.25
Garfield	12.70	7.88	10.28	11.48
McCone	12.02	6.96	9.49	10.76
Golden Valley	15.05	9.86	12.46	13.75
Treasure	15.75	7.57	10.20	11.51
Glacier	17.96	11.85	14.64	16.03
Carbon	16.39	10.54	13.46	14.92
Pondera	19.19	12.97	16.07	17.63
Judith Basin*	15.69	11.29	14.43	16.00
Daniels	20.45	14.14	17.42	19.07
Teton	15.22	8.63	11.92	13.57
Prairie	14.82	8.09	11.45	13.13
Roosevelt*	14.41	9.41	12.84	14.54
Madison	19.92	13.03	16.49	18.20
Meagher	18.54	11.05	14.78	16.65
Hill	21.32	13.57	17.44	19.38
Wheatland	20.08	12.17	16.10	18.07
Sweet Grass	19.14	10.73	14.91	17.00
Dawson	19.02	10.53	14.77	16.88
Stillwater	24.18	15.59	19.88	22.03
Broadwater	16.62	7.69	12.12	14.35
Missoula	28.42	19.04	23.73	26.07
Sanders	18.87	8.18	14.16	16.52
Valley	27.72	18.00	22.81	25.21
Beaverhead	24.82	11.72	16.82	19.38
Fergus	23.47	13.23	18.35	20.91
Granite	25.90	15.45	20.65	23.25
Custer	25.19	14.71	19.95	22.57
Powell	23.80	13.24	18.52	21.16
Yellowstone	22.81	12.24	17.52	20.16
Gallatin	24.62	13.80	19.21	21.92
Flathead	26.66	13.45	19.93	23.18
Lincoln	35.39	22.42	28.91	32.15
Park	33.19	20.10	26.64	19.91
Silver Bow	41.14	27.47	34.30	37.71
Jefferson	31.71	17.54	24.83	28.47
Lake	33.91	19.25	26.58	30.24
Lewis and Clark	32.86	17.43	25.11	28.95
Cascade	37.29	21.88	29.59	33.44
Deer Lodge	34.94	18.59	26.76	30.84
Mineral	47.34	29.16	38.25	42.80
Ravalli	36.76	15.60	26.18	31.47

* original levy information probably incorrect

Source of 1981-82 levy information: Retirement budget and levy reports filed at the Office of Public Instruction.

SUMMARY INFORMATION

Costs of selected options under LC 41

Assumptions: 154,000 ANB (154,255 - actual 1982 ANB)

1982 Retirement Budgets - $37,012,464

154,000 x $100 per ANB = $ 15,400,000

154,000 x $ 50 per ANB = $ 7,700,000

154,000 x $ 25 per ANB = $ 3,850,000

Range of levy reduction with above equalization options

$100/ANB - 1 to 2 mill reduction for high TV/ANB counties
16 to 21 mill reduction for low TV/ANB counties

$ 50/ANB - less than 1 mill reduction for high TV/ANB counties
6 to 10 mill reduction for low TV/ANB counties

$ 25/ANB - less than 1 mill reduction for high TV/ANB counties
3 to 5 mill reduction for low TV/ANB counties

APPENDIX E

Additional Reports to the Subcommittee on Education

1. "Study Design and Work Plan of the Subcommittee on Education--HJR 34," Andrea Merrill, July 27, 1981

2. "Issues in Montana School Finance," Dr. Milton K. Negus, August 7, 1981

3. "Materials for Distribution to Joint Subcommittee on Finance in Public Education," John Augenblick, August 7, 1981

4. Office of the Legislative Auditor, Report on the Examination of Financial Statements of the Office of Public Instruction, March 1981

5. "Financing the Public Schools of Montana," A Report to the Superintendent of Public Instruction, George R. Bandy, December 1980

6. "A Legislative and Financial History of the Montana School Foundation Program (1949-1981)" Andrea Merrill, October 15, 1981

7. "A Summary of the Transcripts and Committee Majority Proposal on the Education Article for the 1972 Montana Constitution: A Search for Intent," Andrea Merrill, September 1981

8. "Testimony and Findings Presented to the Subcommittee on Education in Response to the Study Questions," Andrea Merrill, October 1981

9. "Report on Education Finance Issues in Montana and Options for Further Study" Mary Frase Williams, consultant, National Conference of State Legislatures, December 21, 1981

   Report Summary, Andrea Merrill, January 8, 1982

10. Minutes of the Subcommittee on Education, January 8, 1982

11. "Commentary on the Operation of the Montana School Foundation Program," John Campbell, January 1982

12. Written testimony from Representative Ken Nordtvedt, January 28, 1982

13. Written testimony from the Board of Public Education, March 6, 1982

14. Presentation material from Rod Svee and Hal Hawley, Office of Public Instruction

15. "Adult Basic Education Funding," Montana Adult Education Association, March 6, 1982

16. "The Funding of Montana's Public Schools," School Administrators of Montana Committee on Public School Finance, Dr. Milton Negus, chairman, March 1982

17. Minutes of the Subcommittee on Education, March 6, 1982

18. Minutes of the Subcommittee on Education, April 19, 1982

19. "Equitable School Funding: A Review of the Study Questions and Recommendations," Andrea Merrill, April 5, 1982

20. "Other States' Programs to Reduce School Funding Inequities," Andrea Merrill, May 1982

21. "How Other States Fund Special Education, Capital Outlay, and Transportation" and "Equity in State Provisions for Financing Capital Outlay," Andrea Merrill, July 1982

22. "Proposed Foundation Program for Nonisolated High School Districts," Andrea Merrill, May 26, 1982

23. "Notes on Budget and Taxing Limitations for School Districts," Andrea Merrill, July 15, 1982

24. House Bill No. 312 and House Bill No. 754, as introduced by Rep. Esther Bengtson, 47th Legislature

25. "Guaranteed Tax Base Program Options and Costs" a computer analysis by Steven R. Colberg

26. "An Analysis of Permissive Amount Used by School Districts, 1981-82," Steven R. Colberg, Office of Public Instruction, June 23, 1982

27. LC 41, draft bill on equalization of teacher retirement levies; rough drafts of two additional options

28. LC 34, draft bill on foundation program schedule changes for nonisolated small high schools

29. "Cost Projections for Guaranteed Tax Base Program," Steven R. Colberg, Office of Public Instruction, September 9, 1982

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE PERMISSIVE AMOUNT AND THE PERMISSIVE LEVY ALLOWED SCHOOL DISTRICTS; TO PROVIDE A NEW DEFINITION OF THE FOUNDATION PROGRAM; AND TO INCREASE THE BASIC COUNTY LEVIES IN SUPPORT OF LOCAL AND STATE EQUALIZATION OF THE FOUNDATION PROGRAMS OF THE ELEMENTARY AND HIGH SCHOOL DISTRICTS; AMENDING SECTIONS 20-3-324, 20-5-305, 20-5-312, 20-5-506, 20-6-603, 20-7-414, 20-7-422, 20-7-431, 20-9-141, 20-9-301, 20-9-303, 20-9-320, 20-9-321, 20-9-331, 20-9-333, 20-9-343, 20-9-351, AND 20-9-353, MCA; AND REPEALING SECTIONS 20-9-315 AND 20-9-352, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall have the power and it shall be their duty to perform the following duties or acts:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board may deem necessary, accepting or rejecting such recommendation as the trustees shall in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel deemed necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, ~~permissive levy~~, additional levy, cash reserve, and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation prugram of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous ~~federal~~ programs fund, building fund, housing and dormitory fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal

cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and disoose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(19) make such reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when deemed advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any

medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs;

(22) procure and display outside daily in suitable weather at each school of the district an American flag which shall be not less than 4 feet by 6 feet; and

(23) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 2. Section 20-5-305, MCA, is amended to read:

"20-5-305. Elementary tuition rates. Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of 20-5-301 or 20-5-302, such district shall pay tuition to the elementary district where the pupil attends school on the basis of the rate of tuition determined by the attended district. The rate of tuition shall be determined by:

(1) totaling the actual expenditures from the district general fund, retirement fund, and debt service fund;

(2) dividing the amount determined in subsection (1) above by the ANB of the district for the current fiscal

year, as determined under the provisions of 20-9-311; and

(3) subtracting the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program, as prescribed by 20-9-303 ~~plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district~~, from the amount determined in subsection (2) above."

Section 3. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) At the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, retirement fund, and debt service fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and

(c) subtracting the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program, as prescribed by 20-9-303 ~~plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district~~, from the amount determined in subsection (1)(b) above.

(2) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(3) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(4) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due such out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided

by each high school district where resident district pupils have attended school.

(5) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence shall be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first moneys realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of 20-9-141.

(6) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall

report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with 20-9-142. This levy requirement shall be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments shall be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school feel the transfer privilege provided by this subsection is being abused they may appeal to the county superintendent of schools who shall hold a hearing and either approve or disapprove the transfer."

Section 4. Section 20-6-506, MCA, is amended to read:

"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district and high school district operating a county high school. (1) Whenever the

opening of a junior high school is approved for the ensuing school fiscal year under 20-6-505, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal years shall be applied under 20-9-320 to prorate the ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation program amount between the elementary and high school districts. Each district shall adopt its general fund budget on the basis of the prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

(2) The cost of operating the junior high school shall be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school."

Section 5. Section 20-6-603, MCA, is amended to read:

"20-6-603. Trustees' authority to acquire or dispose of sites and buildings -- when election required. (1) The trustees of any district shall have the authority to purchase, build, exchange, or otherwise acquire or sell or otherwise dispose of sites and buildings of the district. Such action shall not be taken by the trustees without the

approval of the qualified electors of the district at an election called for such approval unless:

(a) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site or building;

(b) an additional levy under the provisions of 20-9-353 has been approved for the purpose of constructing, purchasing, or acquiring the site or building;

(c) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the ~~maximum-general-fund-budget-without-a-vote~~ foundation program amount prescribed in 20-9-316 through 20-9-321 and, in the case of a site purchase, the site has been approved under the provisions of 20-6-621; or

(d) moneys are otherwise available under the provisions of this title and the ballot for the site approval for such building incorporated a description of the building to be located on the site.

(2) When an election is conducted under the provisions of this section, it shall be called under the provisions of 20-20-201 and shall be conducted in the manner prescribed by this title for school elections. An elector qualified to vote under the provisions of 20-20-301 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the

trustees may take the proposed action."

Section 6. Section 20-7-414, MCA, is amended to read:

"20-7-414. Determination of children in need and type of special education needed -- approval of classes and programs by superintendent. (1) The determination of the children requiring special education and the type of special education needed by these children shall be the responsibility of the trustees, and such determination shall be made in compliance with the procedures established in the rules of the superintendent of public instruction.

(2) Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval and funding of the class or program by the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of public education, and the rules of the superintendent of public instruction. No special education class may be operated by the trustees without the approval of the superintendent of public instruction. Each special education class or program must be approved annually to be funded as part of the ~~maximum-budget-without-a-vote~~ foundation program for special education."

Section 7. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state tuition for special education children. (1) If the trustees of any district recommend to the superintendent of public instruction the attendance of a child in need of special education in a special education program offered outside of the state of Montana, such arrangements shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

(2) Whenever the attendance of a child at an out-of-state special education program is approved by the superintendent of public instruction, it shall be the responsibility of the superintendent of public instruction, in cooperation with the department of social and rehabilitation services and the department of institutions, to negotiate the program for the child and the amount and manner of payment of tuition. The amount of tuition shall be included as a contracted service in 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote~~ foundation program for special education."

Section 8. Section 20-7-431, MCA, is amended to read:

"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual accounting. (1) For the purpose of determining the ~~maximum-budget-without-a-vote~~ foundation program for special

education as defined in 20-9-321, the following schedule of allowable costs shall be followed by the school district in preparation of its special education budget for state aid request purposes and by the superintendent of public instruction in his review and approval of the budget (for the purposes of determining the amount of the ~~maximum-budget-without-a-vote~~ foundation program for special education for the district, and as used in this schedule, "full-time special pupil" and "regular AMB" are to be determined in accordance with 20-9-311 and 20-9-313):

(a) instruction: salaries, benefits, supplies, textbooks, and other expenses including:

(i) salaries and benefits of special program teachers, regular program teachers, teacher aides, special education supervisors, audiologists, and speech and hearing clinicians--the entire cost if employed full time in the special program; if such personnel are shared between special and regular programs--a portion of the entire cost corresponding to the entire working time which each such person devotes to the special program;

(ii) teaching supplies and textbooks if used exclusively for special programs--the actual total cost;

(iii) other expenses:

(A) contracted services, including fees paid for professional advice and consultation regarding special

students or the special program, and the delivery of special education services by public or private agencies--the actual total cost;

(8) transportation costs for special education personnel who must travel on an itinerant basis from school to school or district to district or to in-state child study team meetings or in-state individualized education program meetings--the actual cost to the district calculated on the same mileage rate used by the district for other travel reimbursement purposes;

(b) supportive services, including:

(i) salaries and benefits of professional supportive personnel--the entire cost if employed full time in the special program; if such personnel are shared between special and regular programs--a portion of the entire cost corresponding to the entire working time which each such person devotes to the special program. Professional supportive personnel may include counselors, social workers, psychologists, psychometrists, physicians, nurses, and physical and occupational therapists.

(ii) salaries and benefits of clerical personnel for professional personnel in supportive services--the entire cost if employed full time in the special program; if such personnel are shared between special and regular programs--a portion of the entire cost corresponding to the entire

working time which each such person devotes to the special program;

(c) equipment:

(i) equipment--the actual total cost;

(ii) special equipment for district-owned school buses necessary to accommodate special students--the actual total cost;

(iii) special equipment for school buses contracted to transport special students--that purtion of the contract price attributable to the cost of special equipment or personnel required to accommodate special students--the actual special cost;

(d) room and board costs when the special pupil has to attend a program at such a distance from his home that commuting is undesirable as determined by the superintendent of public instruction.

(2) The superintendent of public instruction shall, prior to September 1, 1977, revise the rules in accordance with the policies of the board of public education for:

(a) keeping necessary records for supportive and administrative personnel and any personnel shared between special and regular programs;

(b) defining the total special program caseload that shall be assigned to specific support persons and the kinds of professional specialties to be considered relevant to the

program before the district may count an allowable cost under subsection (1)(b) of this section; and

(c) defining the kinds or types of equipment whose costs may be counted under subsection (1)(c)(i) of this section.

(3) An annual accounting of all expenditures of school district general fund moneys for special education shall be made by the district trustees on forms furnished by the superintendent of public instruction. The superintendent of public instruction shall make rules for such accounting.

(4) If a board of trustees chooses to exceed the budget approved by the superintendent of public instruction, costs in excess of the approved budget may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education.

(5) Allowable costs prescribed in this section do not include the costs of the teachers' retirement system, the public employees' retirement system, the federal social security system, or the costs for unemployment compensation insurance.

(6) (a) Notwithstanding other provisions of the law, the superintendent of public instruction shall not approve a ~~maximum-budget-without-a-vote~~ foundation program for special education which exceeds legislative appropriations.

(b) If special education budgets approved by the

superintendent of public instruction exceed legislative appropriations available for special education, each district shall receive a pro rata share of the available appropriations based upon its budget as a percent of all approved special education budgets. The amount of the approved budgets in excess of the available appropriations may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education and is the responsibility of the school district."

Section 9. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303, ~~--the--district's permissive--levy--amount--as--provided--in-20-9-352,~~ and any additional levies authorized by the electors of the district under the provisions of 20-9-353, except that the total of the ~~permissive--and~~ additional levies shall not exceed the total amount of the final general fund budget less the foundation program.

(b) Determine the total of the moneys available for

the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated state impact aid received under the provisions of 20-9-304;

(v) anticipated interest to be earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(vi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(c) Subtract the total of the moneys available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total levy requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(c) shall be reported to the county

commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with 20-9-142."

Section 10. Section 20-9-301, MCA, is amended to read:

"20-9-301. Purpose and definition of foundation program and general fund. (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state shall be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the ~~minimum~~ financing as established by the foundation program shall be the general fund of the district. The purpose of the general fund shall be to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each school fiscal year shall not exceed the financing limitations established by this title but shall be no less than the amount established by law as the foundation

program. The general fund budget shall be financed by the foundation program revenues and may be supplemented by the ~~permissive levy and~~ additional voted levies in the manner provided by law."

Section 11. Section 20-9-303, MCA, is amended to read:

"20-9-303. Definition of foundation program ~~and its proportion of the maximum general fund without a voted levy schedule amount~~ -- nonisolated school foundation program financing -- special education funds. (1) As used in this title, the term "foundation program" shall mean: ~~the minimum operating expenditures as established herein that are sufficient to provide for the educational program of a school.~~

(a) the maximum general fund budget of any district as specified in the schedules set forth in 20-9-316 through 20-9-320 on the basis of calculations for determination of the average number belonging as provided in 20-9-311 through 20-9-313;

(b) in addition to subsection (a), the foundation program for special education as specified in 20-9-321.

(2) The foundation program relates only to those expenditures authorized by a district's general fund budget and shall not include expenditures from any other fund. It shall be financed by:

(a) county equalization moneys; and

(b) state equalization aid.

(3) The total amount of the general fund of a district may not be greater than the amount specified in subsection (1) except when the district has adopted an emergency general fund budget under the provisions of 20-9-165 or when the district satisfies the requirements for an additional levy for the general fund budget under the provisions of 20-9-353.

~~(2)~~(4) ~~The dollar amount of the foundation program shall be 80% of the maximum general fund budget without a voted levy limitation as set forth in the schedules in 20-9-316 through 20-9-321.~~ The foundation program of an elementary school having an ANB of nine or fewer pupils for 2 consecutive years which is not approved as an isolated school under the provisions of 20-9-302 shall be ~~80%~~ 100% of the schedule amount set forth in 20-9-316 through 20-9-321, but the county and state shall participate in financing one-half of the foundation program, and the district shall finance the remaining one-half by a tax levied on the property of the district. When a school of nine or fewer pupils is approved as isolated under the provisions of 20-9-302, the county and state shall participate in the financing of the total amount of the foundation program.

~~(3)~~(5) Funds provided to support the special education

accounting budget may be expended only for special education purposes as approved by the superintendent of public instruction in accordance with the special education budgeting provisions of this title. Expenditures for special education shall be accounted for separately from the balance of the school district general fund. Transfers between items within the special education budget for accounting purposes may be made at the discretion of the board of trustees in accordance with the financial administration part of this title. The unexpended balance of the special education accounting budget shall carry over to the next year to reduce the amount of funding required to finance the district's ensuing year's ~~maximum-budget-without-a-vote~~ foundation program for special education."

Section 12. Section 20-9-320, MCA, is amended to read:

"20-9-320. ~~Maximum--general--fund--budget~~ Foundation program for junior high school. (1) The general fund budget amount for an approved and accredited junior high school shall be prorated between the elementary district general fund budget and the high school district general fund budget in the following manner:

(a) determine the per-ANB schedule amount for the school, as defined by 20-9-317 and 20-9-319, from the high school schedule;

(b) calculate the ANB for the regularly enrolled

full-time pupils enrolled in the 7th and 8th grades of the junior high school;

(c) multiply the per-ANB schedule amount determined in subsection (1)(a) by the ANB calculated in subsection (1)(b) to determine the authorized general fund budget amount which shall be available for the elementary district general fund budget; and

(d) subtract the amount determined in subsection (1)(c) from the total authorized general fund budget amount for the school to determine the authorized general fund budget amount which shall be available for the high school district general fund budget.

(2) The general fund budget amount determined for each school of a district under the schedules provided in 20-9-316 through 20-9-319 shall be totaled to determine the ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation program amount for such district."

Section 13. Section 20-9-321, MCA, is amended to read:

"20-9-321. ~~Maximum--general--fund~~ Foundation program budget for special education. (1) For the purpose of establishing the ~~maximum-budget-without-a-vote~~ foundation program amount for the current year special education program for a school district, the superintendent of public instruction will determine the total estimated cost of the special education program for the school district on the

basis of a special education program budget submitted by the district. The budget will be prepared on forms provided by the superintendent of public instruction and will set out for each program:

(a) the estimated allowable costs associated with operating the program where allowable costs are as defined in 20-7-431;

(b) the number of pupils expected to be enrolled in the program; and

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of ~~20-9-315~~ 20-9-316 through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction shall be the special education ~~maximum-budget-without-a-vote~~ foundation program amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget shall not, under any condition, be less than the ~~maximum-budget-without-a-vote~~ foundation program amount for one regular ANB for each special full-time pupil in the school district.

(3) If a special education program is implemented or expanded during a given school term too late to be included

in the determination of the district ~~maximum-budget-without-a-vote~~ foundation program amount for the school year as prescribed in this part, then subject to the approval of the program by the superintendent under the emergency budget provisions of 20-9-161(5), allowable costs approved under the budgeting provisions of subsections (1) and (2) for the operation of the program during the given year may be added to the ~~maximum-budget-without-a-vote~~ foundation program amount for special education for the subsequent school year. Such costs must be recorded as previous year special education expenses in the school district budget for the subsequent school year.

(4) The sum of the previous year special education expenses as defined in subsection (3) above and the ~~maximum-budget-without-a-vote~~ foundation program for current year special education as defined in subsections (1) and (2) shall be the special education budget for accounting purposes.

(5) The ~~maximum-budget-without-a-vote~~ foundation program for special education will be added to the ~~maximum-budget-without-a-vote~~ foundation program amount of the regular program ANB defined in 20-9-311 and 20-9-313 to obtain the total ~~maximum-budget-without-a-vote~~ foundation program amount for the district."

Section 14. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic tax of ~~25~~ 34 mills on the dollars of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of the elementary school districts in the county and to the earmarked revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenues identified in subsections (2)(a) through (2)(f) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy of ~~25~~ 34 mills produces more revenue than is required to finance the difference determined above, the county commissioners shall order the county treasurer to remit the surplus funds to the state treasurer for deposit to the earmarked revenue fund, state equalization aid account, not later than June 1 of the fiscal year for which the levy has been set.

(2) The proceeds realized from the county's portion of the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal forest reserve funds distributed to a county and designated for the common school fund under the provisions of 17-3-213;

(b) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(c) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(d) all moneys which are paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

(e) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or referred to in this section; and

(f) any federal or state moneys distributed to the

county as payment in lieu of the property taxation established by the county levy required by this section."

Section 15. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of ~~45~~ 21 mills on the dollar of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of high school districts in the county and to the earmarked revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated revenues identified in subsections (2)(a) and (2)(b) below shall be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy for ~~45~~ 21 mills produces more revenue than is required to finance the difference determined above, the county commissioners shall order the county treasurer to remit the surplus to the state treasurer

for deposit to the earmarked revenue fund, state equalization aid account, not later than June 1 of the fiscal year for which the levy has been set.

(2) The proceeds realized from the county's portion of the levy prescribed in this section and the revenues from the following sources shall be used for the equalization of the high school district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of these proceeds by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

(b) any federal or state moneys distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section."

Section 16. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to spend such appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in 15-31-702, received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same earmarked revenue fund.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium ~~for--may--be--transferred--to-the-state-permissive account-if-revenues-in-that-fund-are--insufficient--to--meet the-state's-permissive-amount-obligation~~."

Section 17. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the estimated state equalization level made under the provisions of 20-9-348 is less than 100% ~~or--if--the permissive--funding--level--made--under--the--provisions--of 20-9-352-is-less-than-100%~~, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would be sufficient to complete the funding of the foundation programs prescribed under 20-9-348 ~~and-of-the-permissive programs-prescribed-under--20-9-352--of--the--elementary--or secondary-schools,-or-both~~, for the current biennium."

Section 18. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional levy for general fund --

election for authorization to impose. (1) The trustees of any district may propose to adopt a general fund budget in excess of the general fund budget amount for such district as established by ~~the schedules in 20-9-316 through 20-9-321~~ 20-9-303 for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district.

(2) When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon such proposition except that no election shall be required to permit the school trustees to use federal funds received under Title I of Public Law 81-874 to increase the school district's general fund budget as established in 20-9-316 through 20-9-321 by the amount of these funds. Such special election shall be called and conducted in the manner prescribed by this title for school

elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

(3) If the election on any additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy such number of mills on the

taxable value of all taxable property within the district, as prescribed in 20-9-141, as are required to raise the amount of such additional levy.

(4) Authorization to levy an additional tax under the provisions of this section shall be effective for only 1 school fiscal year and shall be authorized by a special election conducted before August 1 of the school fiscal year for which it is effective."

Section 19. Repealer. Sections 20-9-315 and 20-9-352, MCA, are repealed.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A GUARANTEED TAX BASE PROGRAM TO PROMOTE MORE EQUITABLE FINANCING OF SCHOOL DISTRICT GENERAL FUND BUDGET NEEDS BEYOND FOUNDATION AND PERMISSIVE PROGRAM SUPPORT BY PROVIDING STATE AID TO ANY SCHOOL DISTRICT WITH A TAXABLE VALUATION PER PUPIL THAT IS LESS THAN THE STATE AVERAGE TAXABLE VALUATION PER PUPIL; AMENDING SECTIONS 20-3-106, 20-5-305, 20-5-312, AND 20-9-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, most Montana school districts depend on the district's property wealth to generate revenue, through the voted levy, for school general fund budget needs beyond foundation and permissive program support; and

WHEREAS, there is a wide disparity in the property wealth available to Montana school districts; and

WHEREAS, this disparity in property wealth has resulted in inequities in taxpayer burdens and per student expenditures among districts; and

WHEREAS, there is clear evidence that high property wealth districts have lower tax rates and higher expenditures per student than do lower property wealth districts; and

WHEREAS, Article X, Section 1, of the Montana Constitution reflects the concern of Montana citizens for equality of educational opportunity for students; and

WHEREAS, Article X, Section 8, of the Montana Constitution reflects a desire for local control of elementary and secondary schools and this desire extends to approval of locally determined general fund budget needs through the voted levy process.

THEREFORE, it is the intent of this act to provide more equitable financing of school district general fund budget needs beyond foundation and permissive program support by guaranteeing state aid for a portion of the deficiency between the amount of revenue raised on the district taxable valuation at the mill levy chosen by the district board of trustees and the amount the same mill levy would raise if applied to the state average taxable valuation per pupil.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 5] may be cited as the "Guaranteed Tax Base Program Act of 1983".

NEW SECTION. Section 2. Creation of program. There is a guaranteed tax base program to be administered by the superintendent of public instruction in accordance with

[section 5]. Under the program, any district that qualifies under the provisions of [section 4] may receive state aid to the extent allowable by the provisions of that section.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:

(1) "District taxable valuation per ANB" means the taxable valuation of a district divided by the district ANB count used to calculate the district's current year foundation program schedule amount.

(2) "Guaranteed budget amount" means that portion of the voted amount of a district which does not exceed the guaranteed budget maximum calculated in the guaranteed tax base formula.

(3) "Guaranteed budget level percentage" means the percentage of general fund budgets above the foundation and permissive support program that will be guaranteed to all districts under the guaranteed tax base program.

(4) "Guaranteed tax base aid" means the amount of state aid determined under the guaranteed tax base formula and provided to help finance the voted amount of districts that qualify for the guaranteed tax base program.

(5) "Nontax revenue" means federal impact aid, state impact aid, tuition earnings, interest earnings, and all other direct income from nontax sources, except state and

county equalization aid, that accrue to the general fund of a district each school fiscal year following July 1, 1982.

(6) "State average taxable valuation per ANB" means the total state taxable valuation divided by either the total state elementary ANB count or by the total state high school ANB count used to calculate either the elementary school districts' or high school districts' foundation and permissive program schedule amounts.

(7) "Voted amount" means that portion of the general fund budget in excess of the foundation and permissive amount for a district as established by the schedules in 20-9-315 through 20-9-321 and which excess is authorized under the provisions of 20-9-353.

NEW SECTION. Section 4. Guaranteed tax base formula. (1) Whenever the trustees of any district adopt, under the provisions of 20-9-353, a general fund budget that includes financing from a voted amount, the following calculations may be used to determine the amount of state aid available under the guaranteed tax base program:

(a) To qualify to participate in the guaranteed tax base program, an elementary district's taxable valuation per ANB must be less than the state average taxable valuation for elementary schools and a high school district's taxable valuation per ANB must be less than the state average taxable valuation for high school districts.

(b) For districts that qualify for the guaranteed tax base program under subsection (1)(a), determine the ratio of the district taxable valuation per ANB to the state average taxable valuation per ANB by dividing the district taxable valuation per ANB by the state average taxable valuation per ANB for the type of district.

(c) To determine the guaranteed budget maximum for such district, multiply the foundation and permissive program amount for such district, as established by the schedules in 20-9-316 through 20-9-320, by the guaranteed budget level percentage of 50%.

(d) To determine the district share maximum, multiply the ratio calculated in subsection (1)(b) by the amount calculated in subsection (1)(c) and add 70% of the amount of any nontax revenue that accrued to the district during the prior school fiscal year.

(e) To determine the district share percent, divide the district share maximum calculated in subsection (1)(d) by the guaranteed budget maximum calculated in subsection (1)(c), but if the district share maximum exceeds the guaranteed budget maximum, the district share percent shall by 100%.

(f) To determine the state share percent, subtract the district share percent from 100%.

(g) To determine the guaranteed tax base aid amount,

multiply the state share percent calculated in subsection (1)(f) by the guaranteed budget amount.

(2) Guaranteed tax base aid provided to any district under this section is earmarked to finance the guaranteed budget amount of that district jointly with the district according to the district share percent and the state share percent as determined in subsections (1)(e) and (1)(f). In the event that actual general fund expenditures for such district are lower than the total amount budgeted, the state portion of financing for the guaranteed budget amount shall revert in proportion to the state share percent calculated in subsection (1)(f). If a district receives more guaranteed tax base aid than it is entitled to, the county treasurer must, upon request of the superintendent of public instruction, return the overpayment to the state in the manner prescribed by the department of administration.

NEW SECTION. Section 5. Duties of superintendent of public instruction under guaranteed tax base program. The superintendent of public instruction shall administer the guaranteed tax base program by:

(1) providing each school district, by June 1 of each year, with the state average taxable valuation per pupil as defined in [section 3] for use in calculating the guaranteed tax base aid available under the guaranteed tax base program for the ensuing school fiscal year;

(2) requiring each district that qualifies for and participates in the guaranteed tax base program to report to the county superintendent all budget and accounting information required to implement the program formula outlined in [section 4];

(3) requiring each county superintendent to submit to the superintendent of public instruction by September 1 all the district reports required in subsection (2);

(4) keeping a record in his office of the full and complete data concerning appropriations available for the guaranteed tax base program and the entitlements for such aid of the districts that qualify for the program;

(5) distributing the guaranteed tax base aid amount to each qualified district from the appropriation by the legislature for that purpose. The payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. If the appropriation is not sufficient to finance the state aid requirements of all the districts, reported according to subsections (2) and (3), each district is entitled to receive a prorated amount.

Section 6. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of

the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(9) establish a system of communication for

calculating joint district revenues in accordance with the provisions of 20-9-151;

(10) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed in 20-9-163 and publish rules for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of 20-9-166;

(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(14) distribute state equalization aid in support of the foundation program in accordance with the provisions of 20-9-342, 20-9-346, and 20-9-347;

(15) estimate the statewide equalization level for the foundation program in accordance with the provisions of 20-9-348;

(16) distribute state impact aid in accordance with the

provisions of 20-9-304;

(17) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(18) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of 20-7-705;

(19) request, accept, deposit, and expend federal moneys in accordance with the provisions of 20-9-603;

(20) authorize the use of federal moneys for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(21) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(22) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

(23) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with such standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(24) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance

with the provisions of 20-7-113 and 20-7-114;

(25) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(26) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(27) as the governing agent and executive officer of the state of Montana for vocational education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(28) consider applications for the designation of a postsecondary vocational-technical center in accordance with the provisions of 20-7-311;

(29) establish a fund for the handling of postsecondary vocational-technical center fees in accordance with the provisions of 20-7-333;

(30) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(31) administer the traffic education program in accordance with the provisions of 20-7-502;

(32) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202, and 20-10-203;

(33) review school building plans and specifications in accordance with the provisions of 20-6-622;

(34) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408; and

~~(35)~~ administer the guaranteed tax base program in accordance with the provisions of [sections 1 through 5]; and

~~(35)~~(36) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 7. Section 20-5-305, MCA, is amended to read:

"20-5-305. Elementary tuition rates. Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of 20-5-301 or 20-5-302, such district shall pay tuition to the elementary district where the pupil attends school on the basis of the rate of tuition determined by the attended district. The rate of tuition shall be determined by:

(1) totaling the actual expenditures from the district general fund, retirement fund, and debt service fund;

(2) subtracting from the amount determined in subsection (1):

(a) the amount allowed by 20-9-316 through 20-9-321

that represents the foundation program as prescribed by 20-9-303;

(b) the state financing of the district permissive levy; and

(c) the guaranteed tax base aid amount determined in [section 4]; and

(2)(3) dividing the amount determined in subsection (1) (2) above by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and.

(3) subtracting the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303 plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district from the amount determined in subsection (2) above."

Section 8. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) At the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, retirement fund, and debt service fund;

(b) subtracting from the amount determined in

subsection (1)(a):

(i) the amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303;

(ii) the state financing of the district permissive levy; and

(iii) the guaranteed tax base aid amount determined in [section 4]; and

(b)(c) dividing the amount determined in subsection (1)(a)(b) above by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and.

(c) subtracting the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303 plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district from the amount determined in subsection (1)(b) above.

(2) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each

pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(3) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(4) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due such out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(5) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence shall be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent

shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first moneys realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of 20-9-141.

(6) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with 20-9-142. This levy requirement shall be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the cash balance in the

tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments shall be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school feel the transfer privilege provided by this subsection is being abused they may appeal to the county superintendent of schools who shall hold a hearing and either approve or disapprove the transfer."

Section 9. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303, the district's permissive levy amount as provided in 20-9-352, and any additional levies authorized by the electors of the district

under the provisions of 20-9-353, except that the total of the permissive and additional levies shall not exceed the total amount of the final general fund budget less the foundation program.

(b) Determine the total of the moneys available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated state impact aid received under the provisions of 20-9-304;

(v) anticipated interest to be earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(vi) anticipated guaranteed tax base aid as determined under the provisions of [section 4]; and

~~(v)~~(vii) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which

may be used to finance the general fund.

(c) Subtract the total of the moneys available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total levy requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(c) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with 20-9-142."

NEW SECTION. Section 10. Codification instruction. Sections 1 through 5 are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20 apply to sections 1 through 5.

NEW SECTION. Section 11. Effective date. [Sections 1 through 5] are effective July 1, 1983.

-End-

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